

EXHIBIT B.112

1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE SOUTHERN DISTRICT OF NEW YORK
 3
 4 MARK I. SOKOLOW, et al.,
 5 Plaintiffs,
 6 v. Civil Action No.
 7 THE PALESTINE LIBERATION 04cv397(GBD)(RLE)
 8 ORGANIZATION, et al.,
 9 Defendants.

10 DEPOSITION OF RAJA SHEHADEH

11 JERUSALEM, ISRAEL

12 OCTOBER 13, 2013

13 REPORTED BY: BRENDA MATZOV, CA CSR NO. 9243

14 OCTOBER 13, 2013 - RAJA SHEHADEH

1 I N D E X

2 WITNESS

3 Raja Shehadeh

4 EXAMINATION

5 By Mr. Yalowitz

PAGE

5

9 P L A I N T I F F S ' E X H I B I T S

10 NUMBER	11 DESCRIPTION	12 MARKED
11 Exhibit 101	Document Entitled "Expert Report by Raja Shehadeh" (No Bates Number)	19
13 Exhibit 102	Document Entitled "Israel-Palestine Liberation Organization Agreement: 1993" (No Bates Number)	37
15 Exhibit 103	Document Entitled "The Israeli-Palestinian Interim Agreement (Oslo II)," Dated September 28, 1995 (No Bates Number)	37
18 Exhibit 104	Document Entitled "Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, Annex I: Protocol Concerning Redeployment and Security Arrangements," Copyright Date 2000 (No Bates Number)	85

25 OCTOBER 13, 2013 - RAJA SHEHADEH

2

1 Deposition of RAJA SHEHADEH, taken in the
 2 above-entitled cause pending in the United States
 3 District Court, for the Southern District of New York,
 4 pursuant to notice, before BRENDA MATZOV, CA CSR 9243,
 5 at the American Colony Hotel, Pasha Room, Second Floor,
 6 Jerusalem, Israel, on Sunday, the 13th day of October,
 7 2013, at 9:31 a.m.

8 APPEARANCES:

9 FOR PLAINTIFFS:

10 ARNOLD & PORTER, LLP
 11 By: KENT A. YALOWITZ, ESQ.
 12 399 Park Avenue
 13 New York, New York 10022-4690
 14 (212) 715-1000 / Fax (212) 715-1399
 kent.yalowitz@aporter.com

15 FOR DEFENDANTS:

16 MILLER & CHEVALIER CHARTERED
 17 By: BRIAN A. HILL, ESQ.
 18 ANDREW T. WISE, ESQ.
 19 655 Fifteenth Street, NW
 20 Suite 900
 21 Washington, DC 20005-5701
 22 (202) 626-5800 / Fax (202) 626-5801
 23 bhill@milchev.com
 24 awise@milchev.com

25 ALSO PRESENT:

MORDECHAI HALLER, Advocate
 RACHEL WEISER, Esq. (partial)
 ARIEH SPITZEN

OCTOBER 13, 2013 - RAJA SHEHADEH

4

1 P L A I N T I F F S ' E X H I B I T S

2 NUMBER	3 DESCRIPTION	4 MARKED
3 Exhibit 105	Document Entitled "Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, Annex IV: Protocol Concerning Legal Affairs," Copyright Date 2000 (No Bates Number)	113
7 Exhibit 106	Document Entitled "Erased in a Moment: Suicide Bombing Attacks Against Israeli Civilians," Copyright Date October 2002 (No Bates Number)	141

13 Q U E S T I O N S I N S T R U C T E D

14 N O T T O A N S W E R

15 PAGE LINE

16 26

22

OCTOBER 13, 2013 - RAJA SHEHADEH

PROCEEDINGS

RAJA SHEHADEH,

called as a witness, being first duly sworn, was examined and testified as hereinafter set forth.

EXAMINATION

BY MR. YALOWITZ:

Q. Mr. Shehadeh, we met briefly before we went on the record. But just again to introduce myself, my name is Ken Yalowitz. I'll be asking you questions today.

Will you state your name for the record?

A. My name is Raja Shehadeh.

Q. Thank you.

And Mr. Shehadeh --

A. You're doing it right.

Q. What?

A. You're doing it very well.

Q. Thank you. I'm -- I'm working on it. As the day goes by, I think I'll do better. Thank you.

Would -- would you describe your education for me, when -- where did you go to school and -- at the college level. Let's start with the university

OCTOBER 13, 2013 - RAJA SHEHADEH

I joined his office.

Q. I see. So it was part of your education, but you didn't practice law in England?

A. No, no. I never intended to practice law in England.

Q. So then you -- where did you grow up?

A. In Ramallah.

Q. And you returned to Ramallah in '77, '78, something like that?

A. '77, yeah. '78.

Q. Did you begin to practice law immediately?

A. No. I had two years of practice. We call it "staj." "Pupilage" they call it in England.

Q. Were you working for another lawyer --

A. No. Sorry. No. I was at my father's office.

Q. And you helped him doing legal matters, but you weren't admitted to practice law?

A. That's right.

Q. So what kind of law practice do you have, and are you still -- is that still your practice?

You are still in that practice?

A. I'm practicing still, yeah, at the same law office.

Q. What kind of work do you do?

A. Over the years, I did different kinds of --

OCTOBER 13, 2013 - RAJA SHEHADEH

6

8

level.

A. I went to school first to the American University in Beirut, where I did the BA -- Bachelor of Arts in English literature and philosophy. And then I went to London and became a member of the Lincoln's Inn. I did the professional exams.

Q. Did -- did you study law in England?

A. I studied law in England. Yeah.

Q. And which law school did you attend there?

A. I -- I did the professional exams. I was at the College of Law. And I did -- passed the qualifying examinations and then joined the Lincoln's Inn and became a barrister-in-law.

Q. What year did you graduate from the American University of Beirut?

A. '73.

Q. And then when did you go to England?

A. Immediately after.

Q. And when were you called to the Bar?

A. '78, I believe. '77.

Q. And were you -- were you working as an apprentice in a -- in a law firm?

A. No. No, I didn't. No. I just did the qualifying exams and then caught the Bar and immediately went back. Because my father is -- was a lawyer and

OCTOBER 13, 2013 - RAJA SHEHADEH

of law -- practice. Now it's mainly commercial.

Q. Uh-huh. And did you -- have you done -- it appears from your report that you've done some work in international law, human rights, this kind of thing?

A. I did a lot -- I was one of the founders of the human rights organization Al-Haq, which is an affiliate of the International Commission of Jurists. And that was in 1979. And I was a volunteer co-director for many years. And during that time, we did a lot of work on human rights. And during that period, I was active in defending cases in military courts, bank cases, writing also about the work and the human rights situation.

Q. Do you practice criminal law as well?

A. No. I don't practice criminal law.

Q. Have you done any?

A. Very, very little.

Q. Do -- do you appear in the courts in the PA?

A. Well, now my -- I -- there are others in the office who appear. I -- I don't appear now because it takes too much time. I concentrate on office work and giving legal advice and so on.

Q. And are you Barred in Israel as well?

A. No, I'm not.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 Q. Do you still have a Bar in England, or you
2 just did it as your training and then you didn't keep
3 it up?
4 A. I didn't keep it up because I was never
5 intending to practice in England.
6 Q. Well, it's not a criticism. I'm just curious.
7 So -- so describe your client base today.
8 A. Well, today we represent banks, companies --
9 large companies, projects that come from the
10 municipalities, the universities, big foundations.
11 This is the kind of work now that we do. We are one
12 of the earliest and most established offices in the
13 West Bank.
14 Q. How many lawyers do you have?
15 A. We have, I think, something like altogether
16 eight and -- and other trainees and staff.
17 Q. Are there firms that are larger than yours,
18 or is yours one of the largest?
19 A. Ours is one of the largest.
20 Q. So can you tell me a little bit more about
21 Al-Haq? What -- what is its mission?
22 A. Its mission, which was explicit in everything
23 we did from the beginning is two-pronged: To monitor
24 and try and relieve the human rights violations and
25 document the violations and seek to relieve them --

OCTOBER 13, 2013 - RAJA SHEHADEH

1 I also became familiar with the Israeli arguments
2 about the international law.
3 Q. You mentioned there was a lot of literature
4 about -- you mentioned there was a lot of literature.
5 Do you mean literature about international
6 law?
7 A. International law as it applies to the
8 occupied territories and lots of studies from all
9 kinds of organizations, local, international, Israeli.
10 Q. What are some of the organizations that
11 you've found reliable?
12 A. Well, in the beginning, there wasn't many
13 who -- who were doing work on the situation in the
14 occupied territories.
15 Amnesty had done some, but very little. The
16 Lawyers' Committee, America, had done one report. Human
17 Rights Watch was not yet established. It came into the
18 picture much later. The Israeli organization B'Tselem
19 also came later in '88. There was the civil -- civil --
20 what is it called? -- "raili," Civil Rights Association
21 which -- with which we met regularly with Ruth Gavison
22 at the time who was involved and with the International
23 Red Cross.
24 And we had week -- monthly meetings with
25 Al-Haq and these organizations throughout the '80s.

OCTOBER 13, 2013 - RAJA SHEHADEH

10

1 so we did a lot of interventions with -- first with
2 the military and now with the PA, you know -- and
3 also to entrench the principle of the rule of law in
4 the occupied territories, for which we did human rights
5 education and writing in local papers and publishing
6 explanations about what -- the principle of the rule
7 of law and how it can be realized in the occupied
8 territories.
9 Q. Did you -- is that how you became familiar
10 with international law and human rights law?
11 A. Yes. That is mainly how. But I also did
12 a lot of reading. And -- and from the time I came back
13 from my education, we were at the office very careful
14 to keep these military orders that Israel was issuing.
15 And I was reviewing these military orders and indexing
16 them and -- and curious at what -- what was happening
17 to the law.
18 And so I can say that, from 1979, I've
19 been monitoring and keeping up with the changes and
20 assessing their consistency with international law
21 by reading and -- of course, I did a lot of reading,
22 a lot of reading, a lot. I kept up with the literature
23 that was being -- and there's plenty of it -- that
24 was being published all over about the human rights
25 situation and the international law situation. And

OCTOBER 13, 2013 - RAJA SHEHADEH

12

1 And the Civil Rights Association, Israel, in the
2 beginning, did not think that they can report or
3 do anything in the West Bank or in the occupied
4 territories. This changed later.
5 But it's mainly B'Tselem and now Human
6 Rights Watch since it came into the picture. Certainly
7 the ICRC. The United States, of course, has the annual
8 report -- human rights report. Amnesty is now much more
9 active, Amnesty International. These are the ones that
10 come to mind. There are many others.
11 Q. I noticed you -- you referenced a report by
12 international -- I'm sorry -- by Human Rights Watch in
13 your report.
14 Is -- is Human Rights Watch -- they -- they
15 issue -- is that part of their work, they issue reports?
16 A. Human Rights Watch began with the Helsinki
17 Watch. I'm not sure exactly when, but quite a while
18 ago. And then -- and they didn't do any work on the
19 Middle East for the -- for the longest time. And I'm
20 not sure exactly of the date.
21 But they established the Middle East Watch
22 maybe 20 years, or maybe more than 20 years now, ago
23 and started being very active in -- in doing reports
24 on the situation here. So they have plenty of work
25 that they've done all over -- all over the Middle East,

OCTOBER 13, 2013 - RAJA SHEHADEH

1 not just here.
2 Q. Have you found Human Rights Watch reports
3 to be reliable?
4 A. They're very careful, and -- and they have
5 people on the ground. And they are usually reliable.
6 Yes.
7 Q. Is it reasonable for people in the field
8 of international and human rights law to rely on
9 reports by Human Rights Watch?
10 A. I think yes, because it's -- it's a neutral
11 organization and it's neither on this side or that side.
12 So -- and -- and they have people on the ground, and
13 they rely on documentation -- firsthand documentation,
14 careful documentation. And they have analysts who
15 then take this data and -- and analyze it. So -- so
16 yes.
17 Q. Are -- are you still active with Al-Haq?
18 A. No, I'm not. I -- I was very active as
19 a co-director. And then the organization grew, and
20 I decided to withdraw because it could stand on its own.
21 I mean, I was always interested in the organization
22 standing on its own. So when it became able to stand
23 on its own, so I withdrew. And now I'm available for
24 advice and so on, but not directly active. No.
25 Q. Your report mentions that you have served

OCTOBER 13, 2013 - RAJA SHEHADEH

1 people?
2 A. That's right.
3 Q. Now, United States against Union Bank for
4 Savings and Investments, you gave an expert report
5 in that case as well?
6 A. That's right. I did give an expert report
7 in that case as well.
8 Q. What was the subject of your report?
9 A. It's many years now. So I wouldn't -- I
10 wouldn't remember the details. But I did work on that.
11 I gave them a report.
12 Q. Did you give testimony in court?
13 A. No. It was just a written report.
14 Q. Uh-huh. And did you give a deposition like
15 today?
16 A. No. There was no need. I think they won the
17 case.
18 Q. So have you ever given testimony in -- in a
19 court in the United States?
20 A. Never. I never gave testimony to a court in
21 the United States.
22 Q. You mentioned in your report that you served
23 as a legal advisor in the '91 and '92 time frame to the
24 Palestinian delegation to some peace talks.
25 Could you just describe that -- what your

OCTOBER 13, 2013 - RAJA SHEHADEH

14

1 as an expert witness in some other cases?
2 A. That's right. I served as an expert --
3 expert witness in other cases.
4 Q. In the Saperstein case, you were retained
5 by the defendants; is that right?
6 A. That's right. I was retained by the
7 defendants.
8 Q. And who were the defendants in that case,
9 or who are the defendants in that case?
10 A. I'm -- I wouldn't remember names. I'm sorry.
11 Q. That's okay.
12 And Shatsky and Ungar, also by the defendants?
13 A. That's right. Shatsky and Ungar by the
14 defendants as well.
15 Q. Were the -- were the attorneys in that case --
16 the attorneys in the Ungar case was Ramsey Clark; is
17 that right?
18 Who was the -- who were the lawyers --
19 A. I never worked with Ramsey Clark.
20 Q. No?
21 A. No.
22 Q. I knew him.
23 A. No, I never worked with him. I mean, I
24 knew him, but I never worked with him or for him.
25 Q. So it was with the Miller and Chevalier

OCTOBER 13, 2013 - RAJA SHEHADEH

16

1 role was to the extent you can describe it publicly
2 and what the mission was and so on?
3 A. After the Madrid Peace Conference,
4 the negotiations between Israel and the Palestinian
5 delegation began. It was a joint Palestinian,
6 Jordanian delegation composed of delegates from the
7 occupied territories. And they asked me to help as
8 a legal advisor because I knew about the legal situation
9 in the occupied territories. And -- and indeed I tried
10 to explain as much as possible and interpret the Israeli
11 offers that were being presented and put them in a legal
12 context.
13 Q. Were you paid for that work?
14 A. I was paid. Yeah. Yeah, I was paid.
15 Q. Who -- who was your client?
16 A. It wasn't very clear. It was -- the
17 delegation -- I said: I'm leaving the office and
18 spending a lot of time in the United States. And
19 so I -- I didn't -- I couldn't afford to leave the
20 office --
21 Q. Sure.
22 A. -- without getting paid.
23 Q. Of course. Everybody must draw water from
24 the well. I don't doubt that.
25 I just was curious, were you -- did you have

OCTOBER 13, 2013 - RAJA SHEHADEH

1 an engagement with the PLO?

2 A. It wasn't -- it wasn't -- no, it wasn't

3 an engagement with the PLO. At that time, of course,

4 engaging with the PLO was a criminal offense. So I

5 was with the Palestinian delegation, which was from

6 here and Israel knew about it.

7 Q. Did you work -- did you do any other work

8 on peace negotiations that -- led that led to Oslo I,

9 Oslo II, anything like that?

10 A. No. I stayed with the negotiations in

11 Washington for one year. And then I left and I never

12 was engaged again or involved.

13 Q. You said you stayed in Washington for a year?

14 A. I mean, you know, in and out.

15 Q. Uh-huh. Where did you stay when you were

16 there?

17 A. Mainly in the Grand Hotel. And then across

18 the street. I don't know what it was called.

19 Q. The Anna?

20 A. Now it's called the Anna. But it had

21 a different name. Or maybe it was Anna then. I'm

22 not sure. But mainly the Grand Hotel.

23 Q. I used to stay there too.

24 A. Yeah. It used to be very nice, but I don't

25 know now.

OCTOBER 13, 2013 - RAJA SHEHADEH

18

1 Q. So I take it you have not worked as an

2 employee of the PA ever; is that right?

3 A. I never worked as an employee of the PA.

4 In fact, I never worked as an employee at all.

5 Q. And has the PA ever been your client?

6 Have you ever been engaged by the PA to

7 provide legal services to it?

8 A. No. I mean, we have at the office done

9 projects which the PA companies and public companies

10 and things that the PA might have had an interest in.

11 But not an employee of the PA. No.

12 Q. And these were commercial projects --

13 A. Commercial projects.

14 Q. -- consistent with your practice?

15 A. That's right. Commercial projects consistent

16 with our practice.

17 Q. So with regard to matters of PA governance,

18 you don't have any personal involvement?

19 Is that fair to say?

20 MR. HILL: Objection. Vague.

21 MR. YALOWITZ: Sure. Let me --

22 MR. HILL: Go ahead and answer.

23 MR. YALOWITZ: Well, I'll -- let me rephrase

24 it --

25 MR. HILL: Sure.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 MR. YALOWITZ: -- if that's all right.

2 MR. HILL: Go ahead.

3 Q. BY MR. YALOWITZ: Do you have any personal

4 experience serving as a legal advisor to the PA on

5 matters of their internal procedures?

6 A. No. But I did studies and I was concerned

7 about the procedures and how the operations were --

8 how the government was taking place. I mean, I was

9 curious and continued to study how the evolution

10 of the PA was taking place and, in particular, in

11 relationship to the Oslo agreements.

12 Q. Did you publish those studies?

13 A. I published, in 1997, a study which was a

14 legal analysis of the Oslo agreements and went into

15 some detail as to how the PA evolved out of the Oslo

16 agreements. It was called "From Occupation to Interim

17 Accords."

18 Q. I think that you mentioned it in your report.

19 Anything after that publication?

20 A. I did articles for various books and articles.

21 I think I mentioned them.

22 (Plaintiffs' Exhibit 101 marked.)

23 Q. BY MR. YALOWITZ: Why don't we hand you

24 what we've marked as Plaintiffs' Exhibit 101 and you

25 can just show me. Because you seem --

OCTOBER 13, 2013 - RAJA SHEHADEH

20

1 A. In the list of publications I mentioned them.

2 Q. You seem to be a prolific writer. Wait one

3 second. We're just going to hand out the document.

4 A. (Examining.) Sorry. You want me to point

5 out what exactly?

6 Q. So if you could just tell -- you mentioned

7 that you've done some evaluation of internal PA process.

8 And I was just wondering which articles.

9 A. Well, the main one that I did was the:

10 "From Occupation to Interim Accords."

11 It doesn't have the --

12 (Examining.) Well, the first one is:

13 "Declaration of Principles and the Legal

14 System in the West Bank."

15 Q. So -- I'm sorry. What page are you on?

16 A. I didn't make -- this is page 1 of 7 at the

17 end, "Publications."

18 Q. Yes.

19 A. Publication No. 6.

20 Q. Aah.

21 A. And then I did a chapter in a book which

22 was published by University of London. It's called:

23 "The Weight of Legal History: Constraints

24 and Hope in the Search for a Sovereign Legal Language."

25 And then:

OCTOBER 13, 2013 - RAJA SHEHADEH

1 "Can the Declaration of Principles Bring
2 About a 'Just and Lasting Peace?'"
3 Which was done for the European Journal
4 of International Law.
5 Q. This was about internal PA matters?
6 A. No. It was mainly about the Oslo agreements.
7 And then:
8 "Questions of Jurisdiction: Legal Analysis
9 of the Gaza-Jericho Agreement."
10 Q. Also about the agreement?
11 A. Yeah. And then:
12 "Early Transfer of Powers in the West Bank."
13 Q. Did you touch in that article on matters of
14 internal PA procedures?
15 A. Well, they were all concerned with the Oslo
16 [sic] and -- and the way it was being implemented and
17 executed.
18 Q. Any others?
19 A. "Justice under Occupation."
20 The review article.
21 Q. I see it. And what's the topic of that
22 article?
23 A. I don't remember now. It's been a while.
24 Q. Any other articles that you think might
25 address internal PA structure?

OCTOBER 13, 2013 - RAJA SHEHADEH

22

1 A. Well, I did for the Israeli Business Law Guide
2 the piece on the Palestinian territories, which was
3 called:
4 "Business Law in the Palestinian Autonomous
5 Areas."
6 And that went into the details of the various
7 sections -- sectors of the law which, of course, by
8 then was also PA.
9 Q. I see it on your list.
10 A. Page 5.
11 Q. Yes. Any other articles that concern internal
12 matters of PA organization?
13 A. Well, I gave a long interview for the
14 International Review of the Red Cross in 2012, which
15 also went partly into that.
16 Q. Is that interview in World Literature Today?
17 A. No. It's in the -- it's called the review
18 of the international -- it's called the review or the --
19 the International Committee of the Red Cross.
20 Q. I just don't see it on your list.
21 A. On page 6, three -- third from the bottom.
22 Q. Oh, I see it. Thank you.
23 A. Well, these are the ones that I can think
24 of now.
25 Q. Okay. Have we gone through the whole list

OCTOBER 13, 2013 - RAJA SHEHADEH

1 and you've mentioned the ones that come to mind as
2 potentially responsive?
3 A. The ones that come to mind, yeah. But there
4 are a lot.
5 Q. Now, have you written about the organization
6 of the PLO?
7 A. No, I haven't. I haven't written about the
8 organization of the PLO because I don't know very much.
9 Q. We talked a little bit about international
10 law and human rights law a few minutes ago. And we've
11 talked about sources of facts and data and you mentioned
12 the reports.
13 What are the sources of law that you would
14 typically rely on?
15 A. Well, mainly the Fourth Geneva Convention
16 and its interpretation, the Hague regulations of 1907,
17 and the -- again, the interpretations of these --
18 and the various books on jurisprudence that interpret
19 these and interpret human rights law and humanitarian
20 law -- international humanitarian law.
21 Q. In the Geneva Convention -- there was an
22 addition to the Geneva Convention in 1977.
23 A. Yeah.
24 Q. What was that called?
25 A. The protocol of -- Additional Protocol.

OCTOBER 13, 2013 - RAJA SHEHADEH

24

1 Q. Additional Protocol.
2 And would you include that in the --
3 A. Yeah.
4 Q. -- body that you would rely on?
5 A. Yeah. Yeah, I would include the additional
6 protocols.
7 Q. And then I know some of the organizations
8 you've -- you've mentioned before offer interpretations
9 of international law from time to time.
10 Have you found those to be a useful source
11 as well?
12 A. Of course.
13 Q. You would include among that the Human Rights
14 Watch reports we've discussed?
15 A. Yeah. Because they -- they often refer to
16 international law and interpret -- give their opinion
17 on its applicability.
18 Q. You mentioned in your report that you come
19 from a family that has long been a proponent of a
20 two-state solution.
21 Is that correct?
22 A. That's right. My father was one of the
23 first to propose a two-state solution.
24 Q. And I take it you -- even from our short
25 discussion we've had, I take it you oppose the use

OCTOBER 13, 2013 - RAJA SHEHADEH

1 of violence to achieve a two-state solution?

2 A. I have always opposed the use of violence

3 in bringing about the two-state solution.

4 Q. I seem to recall that there have been --

5 there have been advertisements in newspapers by Al-Quds

6 taken out by people -- Palestinians saying "stop the

7 suicide attacks" during the Second Intifada.

8 Did you sign those kinds of ads?

9 A. I make it a point never to sign petitions.

10 I think I've never in my life signed a petition. There

11 might be an exception that I've forgotten. But, in

12 general, whenever I'm asked to sign petitions -- I

13 don't think petitions is the way to go. I -- I don't

14 sign petitions.

15 Q. Okay. Thank you.

16 So let's talk about your report. Did you --

17 did you prepare the first draft of your report?

18 A. I prepared all the report, all the drafts,

19 everything.

20 Q. What were you asked to do?

21 A. I was given these case [sic] and asked to

22 give my opinion on -- on the events.

23 Q. Did -- did you do a draft before the expert

24 reports from the plaintiffs were produced?

25 A. Oh, yeah. Yeah, certainly. I saw these

OCTOBER 13, 2013 - RAJA SHEHADEH

1 and instruct the witness not to answer that question.

2 It calls for communications with counsel.

3 So don't answer that.

4 Q. BY MR. YALOWITZ: Do you have an opinion

5 on whether Mr. Kaufman's report is reasonable?

6 A. I do have an opinion. And I think that

7 I was very surprised and distressed to read Kaufman's

8 report. Because I have, in my experience with the

9 military courts, found that what he said was rather

10 shocking.

11 Q. Now, in your report, you speak about the

12 legal regime in the OPT.

13 Is that an acronym that legal people use?

14 A. Most reports now, including, I think, U.N.

15 reports, use this "OPT" as "occupied Palestinian

16 territories."

17 Q. And is that a term you use in conversation,

18 or is it more just a term that we see in the literature?

19 A. Well, it's very strange in conversation

20 to say "OPT," "OPT," you know. But we would say it

21 "occupied Palestinian territories."

22 Q. Now, maybe it would be helpful to me just

23 to have some of your understanding of the historical

24 sovereignty in those areas, in those territories.

25 I gather that there was a period of mandatory

OCTOBER 13, 2013 - RAJA SHEHADEH

1 much later.

2 Q. And then -- and then you read the reports

3 of the plaintiffs?

4 A. I did.

5 Q. And then you made some comments on some of

6 the reports?

7 A. Yes. I made some comments on the reports

8 of the plaintiffs.

9 Q. And I noticed you read the report of Nick

10 Kaufman?

11 A. That's right. I did read, amongst others,

12 the report of Nick Kaufman.

13 Q. He was speaking about the judicial process

14 in the Israeli military court system?

15 A. That's right. He was.

16 Q. And I noticed you didn't offer any opinions

17 in your report about his report.

18 Do I have that right?

19 A. I didn't give an opinion on all the reports

20 in -- in my report. But that's not because -- I --

21 I didn't. No.

22 Q. Is that -- did you discuss whether to give

23 an opinion on Mr. Kaufman's report with counsel for

24 the defendants?

25 MR. HILL: Hold on. I'm going to object

OCTOBER 13, 2013 - RAJA SHEHADEH

1 rule; is that right?

2 A. Well, if you want to start from the history,

3 it -- mandatory rule came after World War I, after the

4 dismemberment of the Ottoman Empire. And the mandatory

5 rule came with the terms of the mandate, which were

6 very specific and which began in, I think, 1921 and

7 ended in 1948.

8 Q. The beginning was the Treaty of Lausanne?

9 A. In the Treaty of Lausanne. Yeah.

10 Q. And so is that -- was that treaty sort of

11 recognized under international law as the appropriate

12 governing instrument for the --

13 A. No. The -- the government -- the governing

14 instrument was the terms of the British Mandate, which

15 was given by the League of Nations at that time. And

16 so the French had a mandate over other parts of the

17 eastern Mediterranean -- Lebanon and Syria -- and the

18 British had the mandate over Palestine. And it is

19 a League of Nations mandate, which was very specific

20 with the terms of the mandate. And it lasted until

21 1948.

22 Q. And so I take it you're familiar with the

23 '47 Partition Plan?

24 A. I'm familiar with the Partition Plan.

25 Q. And I think you used a term for Jerusalem

OCTOBER 13, 2013 - RAJA SHEHADEH

1 that was used in that plan, a Latin term. I can't
2 remember it.

3 A. Corpus separatum.

4 Q. Corpus separatum.

5 A. Because the -- under the partition scheme
6 of 1947, Jerusalem was to be an international city
7 neither with the Jewish side nor with the Arab side.
8 It's corpus separatum.

9 Q. Okay. What caused the end of the mandatory
10 period?

11 A. Well, the -- the cause of the end was that
12 the British decided to withdraw. They were bankrupt.

13 Q. So -- and what is -- what is the international
14 law community's view on the 1947 Partition Plan, if any?

15 Is it -- does it have any legal status?

16 A. I think it does -- does. The 1947 partition
17 scheme still stands. It is recognized and still is
18 part of the U.N. resolutions that remain unfulfilled
19 or only partially fulfilled.

20 Q. So then, following the mandatory period, what
21 was the legal status of the West Bank area?

22 A. Well, then Israel was established in 1948.
23 And it was established in an area larger than what was
24 determined to be a Jewish state in the '47 partition
25 scheme. The Jordanian Army fought with the Israeli

OCTOBER 13, 2013 - RAJA SHEHADEH

1 Q. And in Gaza, the Egyptian Army occupied the
2 area we now call the Gaza Strip?

3 A. The Gaza Strip came under Egyptian
4 jurisdiction of -- limited jurisdiction. It wasn't --
5 it was never made part of Egypt. And at a certain
6 point, they established a legislative council which
7 started issuing legislative instruments that began
8 to change some of the mandatory laws in the Gaza Strip.

9 And -- but the ultimate -- it wasn't an
10 independent state. I mean, it wasn't independent,
11 and it was still under Egyptian rule of some sort.

12 Q. I noticed, in your report, that you mentioned
13 that there was some kind of a Jordanian department
14 for dealing with the land of Jewish people who had
15 been living in the West Bank before the 1948 war.

16 What was that entity called?

17 A. There was a custodian of absentee properties.
18 And property that belonged to the Jewish people who
19 were in -- no longer were in Israel was recognized
20 as absentee property and protected. They -- they
21 didn't allow anybody to encroach on it.

22 Q. What was the concept of that, that it would
23 be held in trust until some future time?

24 A. Yeah. It would be protected until the end
25 of hostilities. And I'm not sure if they had any --

OCTOBER 13, 2013 - RAJA SHEHADEH

30

1 Army to -- I think to keep the West Bank. Because there
2 was an attempt to take over all of Jerusalem and -- and
3 the West Bank. And Israel, I think, had the military
4 means of doing it. But the Jordanian Army fought, and
5 then there was a cease-fire line between the two sides.

6 Q. An armistice demarcation line?

7 A. Armistice. Yeah.

8 And the West Bank, including East Jerusalem,
9 was placed under military rule by the Jordanians. And
10 then in 1950, I think -- yeah, 1950 there was an --

11 Q. Armistice Agreement?

12 A. -- an annexation. And it came under Jordanian
13 jurisdiction and became part of the -- what was called
14 the Hashemite -- or still is -- Hashemite Kingdom of
15 Jordan.

16 Q. So from 1950 until 1967, the West Bank was
17 annexed by Jordan?

18 A. That's right.

19 Q. And what is the -- what is the international
20 legal community's view of that annexation?

21 Is it recognized as lawful? Is it considered
22 to be an occupation?

23 A. Some states recognized that the Hashemite
24 Kingdom of Jordan includes both sides of the river.
25 Some were quiet.

OCTOBER 13, 2013 - RAJA SHEHADEH

32

1 I mean, he was a custodian, a trustee of this property.

2 Q. And so the -- in this way, despite the fact
3 that there was -- there were hostilities, the property
4 rights of individual civilians were preserved to some
5 extent?

6 A. I think that's right.

7 Q. And, I mean, that sounds like something that
8 international law and humanitarian law would require.
9 Do I have that right?

10 A. Yeah. I'm not sure exactly what is the --
11 what international law says about this. But I -- I
12 know that, under Jordanian law, they had this law for --
13 and the custodian for absentee property, which was
14 mainly property of Jewish people.

15 Q. Was there a similar entity in the Gaza area?

16 A. I don't know. I don't know.

17 Q. What is your understanding under international
18 law of the status of the armistice demarcation line?

19 A. When my --

20 MR. HILL: Back in 1967, you mean?

21 MR. YALOWITZ: No, no.

22 Q. BY MR. YALOWITZ: The armistice -- when I
23 say the "armistice demarcation line," you understand
24 what I mean; right?

25 A. I understand that you are referring to the --

OCTOBER 13, 2013 - RAJA SHEHADEH

1 what was post '48.

2 Q. And what is your understanding of the status
3 of that line under international law?

4 A. It -- it was, as far as I know and have read,
5 believed to be the international border of -- of Israel.
6 But I've never looked deep into it.

7 Q. It's -- it's governed by some treaties; is
8 that right?

9 A. Well, I -- I haven't looked into it, I must
10 admit. But I believe that they must have had -- drawn
11 a -- some kind of document on which they said that this
12 is the armistice and maps and so on. But I've never
13 looked into it.

14 Q. Fair enough.

15 So let's talk about the Declaration of
16 Principles and the Interim Agreement.

17 Are -- are those different, or are they part
18 of -- considered the same document?

19 Just explain how they fit together.

20 A. They're usually referred to jointly or
21 collectively as the Oslo Accords. And the Oslo
22 Accords are constituted of the Declaration of
23 Principles of 1993 and the Interim Agreement of 1995.

24 The first document, the Declaration of
25 Principles, was signed in Washington, DC, with the

OCTOBER 13, 2013 - RAJA SHEHADEH

1 sides, specifying and flushing out all these matters.

2 The Declaration of Principles also includes, very
3 importantly, a document which is attached and made
4 part of the declaration called the Agreed Minutes,
5 which if you read the Declaration of Principles without
6 the Agreed Minutes, you might think there are certain
7 ways of interpreting what is said in the Declaration of
8 Principles. But then the Agreed Minutes make it clear
9 that there can be no interpretation except this. And
10 it is specified and spelled out in the Agreed Minutes.

11 Q. Are there Agreed Minutes also to the Oslo II?

12 A. I'd rather not say Oslo I, Oslo II. I'd
13 rather say the Declaration of Principles of 1993 and
14 the Interim Agreement of 1995. Because in between
15 there was another document, which was the 1994, which
16 then was replaced by the Interim Agreement of '95.

17 Q. Let me rephrase the question, then, in
18 deference to your preference.

19 Are there Agreed Minutes to the Interim
20 Agreement of 1995?

21 A. There are no Agreed Minutes for the Interim
22 Agreement of 1995.

23 Q. And is there a -- is there a place in the
24 Interim Agreement of 1995 that discusses what -- which
25 document governs in the event of a conflict between

OCTOBER 13, 2013 - RAJA SHEHADEH

34

36

1 presence of the American president and representatives
2 from both sides, the Palestinian and the Israeli. And
3 it is exactly that, a declaration of principles that
4 are to guide the -- the Peace Process. And it begins
5 by referring to the U.N. Resolution 242 and then states
6 very clearly that the two sides have agreed to reach
7 an agreement between them and end the state of war and
8 so on.

9 And then it goes into details regarding
10 how the Palestinian areas are to be governed by the
11 Palestinian Authority and how that authority -- they
12 call it "council" in the Declaration of Principles,
13 the Palestinian council -- who will head the Palestinian
14 council, and not great detail, but some detail, and then
15 how it's going to be elected, regional, operation --
16 economic operation between the two sides, and very
17 specifically those matters which will be outside of
18 the jurisdiction of the Palestinian Authority. These
19 are Jerusalem, Israelis, settlements, and also a very
20 clear indication that these, including the question
21 of refugees, will be deferred to the final negotiations
22 that will take place between the two sides.

23 And then, in the Declaration of Principles,
24 it also indicates that a full document, which is the
25 Interim Agreement, will be negotiated between the two

OCTOBER 13, 2013 - RAJA SHEHADEH

1 the two?

2 A. Yes, there are. Well, yeah, the Interim
3 Agreement is an agreement, which is rather lengthy,
4 and annexes. And one of the annexes is called legal
5 assistance, which is Annex IV, I believe, which is
6 legal assistance. And it spells out the jurisdiction
7 of each side in criminal and civil matters and specifies
8 exactly who would have jurisdiction and when in -- in
9 case of conflict.

10 Q. So I guess I have a little narrower question,
11 which is: It strikes me that the Interim Agreement of
12 1995 supersedes the Declaration of Principles.

13 Is that correct or is that incorrect?

14 A. That is incorrect. The Interim Agreement
15 was referred to in the Declaration of Principles.

16 And the Declaration of Principles made very
17 clear that there would be negotiations for an Interim
18 Agreement that would make much more elaborate details
19 about the running and -- and the composition and the
20 jurisdiction and all matters related to the Palestinian
21 Authority and to the relationship between the two sides.

22 Q. So let's just put the two documents before us,
23 and then we can go over them a little bit. So we'll
24 mark as 102 a copy of the Israel-Palestine Liberation
25 Organization Agreement of 1993. And then we'll mark

OCTOBER 13, 2013 - RAJA SHEHADEH

1 as 103 the Israeli-Palestinian Interim Agreement on
2 the West Bank and the Gaza Strip of 1995, without its
3 annexes.

4 A. Sorry. What's the first document?

5 Q. I think it's the Declaration of Principles,
6 but we'll look together. I hope it is.

7 (Plaintiffs' Exhibit 102 and Exhibit 103
8 marked.)

9 MR. HILL: Kent, just for the record, these
10 are not from the -- from the U.N. These are, I guess,
11 secondary reproductions of the agreements.

12 But you're representing that these are the
13 full and accurate texts of the agreements?

14 MR. YALOWITZ: I hope so.

15 MR. HILL: Okay.

16 MR. YALOWITZ: I can't honestly say I've
17 checked them. But they appear to be authentic. If
18 it turns out that there's an error, we'll figure that
19 out and get it straightened out. Wouldn't do me much
20 good if there is, but that's the way it goes sometimes.

21 THE WITNESS: (Examining.) These are
22 incomplete.

23 Q. BY MR. YALOWITZ: So let's just look at 102
24 together.

25 A. Uh-huh.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 A. Yeah.

2 Q. So -- so you would identify 103 also as --
3 well, let me strike that and ask again.

4 So you would identify 103 as a portion of
5 the Israeli-Palestinian Interim Agreement on the West
6 Bank and the Gaza Strip?

7 A. Yeah. I would -- I would refer to it as an
8 incomplete agree -- section of the Interim Agreement
9 of 1995.

10 Q. And -- and in addition to the annexes and
11 the maps, is there anything else that you would include
12 as part of that agreement?

13 A. No. No. Just the annexes and the maps.

14 Q. So could we look together at the -- well,
15 let me ask you this. Strike the question.

16 Is -- is there anything in the 1995 Interim
17 Agreement that -- that references the 1993 Declaration
18 of Principles?

19 A. I would think there would be in the preamble.

20 Q. So it appears in the first page of the --
21 of 103; is that right?

22 A. Yeah. No, it's on page 2:

23 "Desirous of putting into effect the
24 Declaration of Principles on interim self-government"
25 agreements "signed" in "Washington, DC, on September 13,

OCTOBER 13, 2013 - RAJA SHEHADEH

38

1 Q. And 102 -- what is 102?

2 A. It seems to be the Declaration of Principles
3 of 1993. But I think --

4 Q. And as you've mentioned, it's -- you've
5 mentioned that it's incomplete.

6 What is missing?

7 A. Well, it's missing the annexes which are
8 about the economic operation and regional and various
9 other matters that they agreed would happen. And it's
10 missing the Agreed Minutes, which are a very important
11 part of it.

12 Q. So you would identify 102 as a portion of
13 the 1993 Declaration of Principles?

14 A. Yeah. I would -- I would consider it as
15 a portion of the Declaration of Principles of 1993.

16 Q. All right. And then what is 103?

17 A. 103 appears to be the Interim Agreement of
18 1995. But, again, it is incomplete because the full
19 agreement includes the annexes, which are a very
20 important part of the agreement.

21 Q. And I think they're seven annexes.

22 Is that right?

23 A. I believe so. Yeah.

24 Q. And then some maps as well, which are not
25 included in the exhibit?

OCTOBER 13, 2013 - RAJA SHEHADEH

40

1 1993, and the Agreed Minutes." (As read.)

2 Q. I see. Okay.

3 Now, do the 1993 Declaration of Principles
4 designate Areas A, B, and C, or was that a convention
5 of the 1995 agreement?

6 A. If my memory is correct, it's a 1995 matter.

7 Q. And do you have a general understanding
8 of the -- some of the larger cities that are in the
9 Area A designated lands?

10 A. What do you mean by "understanding"?

11 Q. So what -- what cities were in Area A?

12 A. Well, if I remember correctly, it was Hebron,
13 Ramallah, Nablus, Bethlehem, Jericho, and Jenin. These
14 come to mind. But I'm -- there -- there might be more.

15 Q. Gaza City?

16 A. Oh. No. Well, in -- the Area A, B, and C
17 were mainly in the West Bank. In -- in the Gaza Strip,
18 they confined the division to specifically those areas
19 where the Jewish settlements were established. And the
20 rest was not divided into A, B, and C as in the West
21 Bank.

22 Q. What -- what was the legal status of the
23 non-settlement areas in the Gaza Strip?

24 A. They were under the Palestinian Authority.

25 Q. The same as Area A or the same as Area B?

OCTOBER 13, 2013 - RAJA SHEHADEH

1 A. I imagine -- I never looked into it to be
 2 honest. But I -- I imagine the same as Area A.
 3 Q. The -- the cities you named, those are the
 4 largest cities in the -- in the West Bank?
 5 A. That's right, yeah. They are the largest
 6 cities.
 7 Q. And what was the difference between the --
 8 the control available to the PA in Area A and the
 9 control available to the PA in Area B?
 10 A. Well, it's specified very clearly in the
 11 Interim Agreement. The Interim Agreement divided or
 12 distinguished three levels of jurisdiction, territorial
 13 jurisdiction, functional jurisdiction, and personal
 14 jurisdiction.
 15 And the Palestinian Authority had territorial
 16 jurisdiction only in Area A, functional jurisdiction
 17 in Area B, shared with the Israelis, and in Area C,
 18 only personal jurisdiction over the Palestinians.
 19 Q. There's something I noticed in Annex IV
 20 about what they call security crimes, that Israel
 21 reserved jurisdiction over security crimes, for the
 22 criminal prosecution of security crimes.
 23 Do I have that right?
 24 A. In -- from the beginning, from the Declaration
 25 of Principles, Israel reserved its jurisdiction over

OCTOBER 13, 2013 - RAJA SHEHADEH

1 Q. Matters of marriage or land ownership?
 2 A. Not land ownership. Matters of marriage.
 3 Q. Marriage?
 4 A. Divorce.
 5 Q. Inheritance?
 6 A. Inheritance. Yeah.
 7 Q. What we might call family law?
 8 A. What you would call family law. That's right.
 9 Q. Now -- and what is -- what is territorial
 10 jurisdiction?
 11 A. Territorial jurisdiction meant that -- well,
 12 we can look it up here exactly what it means.
 13 (Examining.) It's in Article XVII.
 14 Chapter 3, Article XVII.
 15 Q. I see it.
 16 A. (Reading.)
 17 "Accordingly, the authority of the
 18 council encompasses all matters that fall within
 19 its territorial, functional, and personal jurisdiction
 20 as follows:"
 21 "The territorial jurisdiction of the council
 22 shall encompass ... except for the settlements" ...
 23 (As read.)
 24 "Territorial jurisdiction includes land,
 25 subsoil, and territorial waters, in accordance with

OCTOBER 13, 2013 - RAJA SHEHADEH

42

1 anything to do with security. So yeah. And -- and --
 2 and that has been carried through consistently all --
 3 following.
 4 Q. With -- with the exception of security crimes,
 5 did the PA have personal jurisdiction over Palestinian
 6 individuals extraterritorially?
 7 MR. HILL: Objection. Vague.
 8 You can go ahead and answer.
 9 THE WITNESS: What do you mean
 10 "extraterritorial"?
 11 Q. BY MR. YALOWITZ: So, for example, if
 12 you're an American citizen and you live here in
 13 Jerusalem, say, the United States still exercises
 14 jurisdiction over you. You're required to pay
 15 taxes, for example. That's extraterritorial
 16 jurisdiction.
 17 A. Yeah, I understand "extraterritorial." But
 18 in -- in the context of this --
 19 Q. So did the --
 20 A. -- where is the extraterritorial?
 21 Q. You mentioned personal jurisdiction over --
 22 A. No. Personal jurisdiction means over matters
 23 such as personal status.
 24 Q. I see.
 25 A. That's -- that's what it means.

OCTOBER 13, 2013 - RAJA SHEHADEH

44

1 the provisions of this agreement."
 2 Q. I see. So what -- what does that -- what --
 3 what does that mean -- how do you explain that to, say,
 4 an American lawyer? What does -- what does territorial
 5 jurisdiction encompass?
 6 A. In other words, the courts would have
 7 jurisdiction over any matter that took place, whether
 8 civil or criminal, in the area of the -- in -- in the
 9 area which -- on which -- over which the Palestinian
 10 Authority has territorial jurisdiction. They can --
 11 the Palestinian Authority police can function fully
 12 and with uniforms in the Palestinian area under their
 13 jurisdiction -- territorial jurisdiction, which is
 14 Area A. The -- the -- I think at -- at some point
 15 also -- yeah. And -- and -- and they -- they don't
 16 have the power outside of the area under their
 17 territorial jurisdiction to -- to exercise jurisdiction.
 18 Q. So --
 19 A. But -- but also there were exceptions in the
 20 Annex IV, on the legal assistance it was called, as
 21 to how the jurisdiction is -- is divided between the
 22 two sides. But in all cases, territorial jurisdiction
 23 does not mean jurisdiction over Israelis or settlers.
 24 Q. So let me make sure I do it methodically here,
 25 lawyer like.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 First of all, the Interim Agreement refers
 2 to something called the "council." Do I have that
 3 right?
 4 A. Yeah. Which later became the Palestinian
 5 Authority.
 6 Q. And -- and -- and I think it even says that --
 7 that, before the council is established, the Palestinian
 8 Authority will -- there's some definition that says
 9 the council -- Palestinian Authority shall be deemed
 10 the council for purposes of this agreement or something
 11 like that.
 12 Do you recall that?
 13 A. There might be.
 14 Q. I thought I read it in your report.
 15 Article I, Section 2, do you have that?
 16 A. In the -- in the --
 17 "Pending the inauguration of the council,
 18 the powers and responsibilities transferred to
 19 the council shall be exercised by the Palestinian
 20 Authority."
 21 Yeah.
 22 Q. So anywhere it says the "council" in the
 23 Interim Agreement, we read that as a reference to
 24 the Palestinian Authority?
 25 A. That's right.

OCTOBER 13, 2013 - RAJA SHEHADEH

46

1 Q. And -- and do I have it right that the
 2 Palestinian Authority has all the rights, liabilities,
 3 and obligations to be assumed by the council under
 4 the Interim Agreement of 1995?
 5 A. That's right. That's right.
 6 Q. Now, within the Area A territory -- I guess
 7 they call it the "territory"; right?
 8 The agreement calls Area A and the Gaza Strip,
 9 other than settlements and military, the agreement calls
 10 that the "territory"?
 11 A. I don't remember. But let's call it Area A.
 12 Q. Okay. So when we -- our convention will
 13 be that, when we refer to Area A, we're including
 14 Gaza City and other portions of the Gaza territory
 15 that were treated as if -- they were treated, for
 16 legal purposes, the same as they were in Area A.
 17 Does that sound right to you?
 18 A. That sounds right.
 19 Q. Okay. Now, the -- you mentioned that there
 20 were Palestinian courts that could hear cases, both
 21 civil and criminal; is that right?
 22 A. That's right.
 23 Q. Okay. And then there was a legislature that
 24 could enact laws that would govern matters within the
 25 jurisdiction of the territory; is that right?

OCTOBER 13, 2013 - RAJA SHEHADEH

1 A. That is right. But we have to keep in
 2 mind the restrictions that the Oslo Accords in both
 3 cases, in -- in -- in both documents, placed on the
 4 legislative powers of the Palestinian Legislative
 5 Council.
 6 Q. So -- so within the -- what's the word that
 7 they use? Within the -- within the rights, liabilities,
 8 and obligations assigned by the Interim Agreement, the
 9 legislature had the power to enact laws?
 10 A. That's right.
 11 Q. And then there was a president who would
 12 function as the chief executive for the relevant
 13 territory?
 14 A. That's right.
 15 Q. And, again, within the rights, liabilities,
 16 and obligations assigned and assumed under the 1995
 17 agreement, the president had what we might call
 18 classical executive powers?
 19 MR. HILL: Objection. Vague.
 20 Go ahead. You can answer.
 21 THE WITNESS: No. We cannot say classical,
 22 because it's very unclassical, very particular, very
 23 specific, very limited, and limited by the terms of
 24 the agreement.
 25 Q. BY MR. YALOWITZ: So the -- the agreement

OCTOBER 13, 2013 - RAJA SHEHADEH

48

1 calls for a Palestinian police force; is that right?
 2 A. It called -- it calls for a Palestinian
 3 police but restricts the powers of the police both
 4 territorially and in terms of who the police can
 5 monitor and express their powers over.
 6 Q. So it calls for police but limits their
 7 operations territorially and in persona; is that right?
 8 A. That is right. Because, in all cases, nothing
 9 in the agreement allowed for what is accepted from the
 10 agreement. The exceptions override anything, including
 11 the Palestinian police. But -- but then there are other
 12 specific instances where the -- the -- Annex II, these
 13 were the question of the police and the powers of the
 14 police, Annex II of the Interim Agreement.
 15 Q. The police included a naval force; is that
 16 right? A coast guard?
 17 A. A naval force?
 18 Q. Yeah.
 19 A. That I don't know. I'm sorry.
 20 Q. A maritime police, you don't recall?
 21 A. I don't -- I don't know.
 22 Q. It included -- I think there's a list in
 23 Annex II of the divisions of the police force.
 24 Is that right?
 25 A. That's right probably.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 Q. What was Force 17?
2 A. That I don't know.
3 Q. Did the PA establish a professional
4 prosecutor's office for crimes?
5 MR. HILL: Objection. Vague.
6 Go ahead.
7 THE WITNESS: The -- the PA took over from
8 the organization of the judiciary that was in place
9 under the Israeli occupation. And under that system,
10 there was a prosecutor's office. So that -- that was
11 continued.
12 Q. BY MR. YALOWITZ: And what is the prosecutor's
13 office -- who's in charge of the prosecutor's office?
14 A. A Palestinian.
15 Q. No, I mean, is it -- what's the title of
16 the -- of the office? Is it like Attorney General or --
17 you know, there must be something like that.
18 A. Prosecutor's office. The prosecutor's office.
19 Q. Is that an elected position or an appointed
20 position?
21 A. No. That's an appointed position.
22 Q. Who makes the appointment?
23 A. I'm not sure to be honest.
24 Q. Somebody within the PA government?
25 A. Yeah. There is a structure. Yeah. There

OCTOBER 13, 2013 - RAJA SHEHADEH

1 A. That's right. There are prisons that are
2 in the West Bank, which Israel manages, and area --
3 and prisons in Area A, which the Palestinian Authority
4 manages.
5 Q. And what's the purpose of having prisons in
6 Area A?
7 A. For criminal matters.
8 Q. Does the PA have the authority to confiscate
9 contraband?
10 MR. HILL: Objection. Vague.
11 You can answer.
12 THE WITNESS: In -- if -- if -- if found in
13 Area A, yeah, they have.
14 Q. BY MR. YALOWITZ: And the PA has the authority
15 to investigate crimes within Area A?
16 A. That's right. They can investigate crimes
17 in Area A.
18 Q. And they -- the PA has a preventative
19 intelligence group within Area A; is that right?
20 MR. HILL: Objection. Vague.
21 You can respond.
22 THE WITNESS: I don't know exactly how the
23 intelligence works. But I -- I would expect they
24 might -- I don't know. This is not something I've
25 looked into.

OCTOBER 13, 2013 - RAJA SHEHADEH

50

52

1 is a structure.
2 Q. It's not appointed by Israel? It's appointed
3 by the PA?
4 A. Yeah. It's appointed by the PA. Certainly.
5 Q. The PA took over prisons that were preexisting
6 as well; is that right?
7 A. Some prisons. It took over some prisons that
8 were preexisting if -- if they fell within Area A. So
9 it's a limited number.
10 Q. Where were the prisons that the PA took over?
11 Do you know?
12 A. Well, for example, the prison in Ramallah
13 they took over before it was destroyed, bombed. They
14 took over a prison near Nablus called Jneid. Every
15 city had a prison. So I suppose they took over prisons
16 in the cities. But there were other prisons around,
17 outside of Area A that they didn't take over.
18 Q. Prisons that continued to be run by the
19 Israeli government?
20 A. That's right. Or -- or some that were since
21 established by the Israeli government.
22 Q. And so today there -- there are prisons
23 outside of Area A that the Israeli government manages,
24 and there are prisons inside of Area A that the PA
25 manages?

OCTOBER 13, 2013 - RAJA SHEHADEH

1 Q. BY MR. YALOWITZ: The -- the PA has social
2 welfare departments; is that right?
3 A. They have a social welfare department,
4 which -- which they inherited from the Israeli
5 authority -- occupation.
6 Q. And there is also -- there are certain
7 departments that they inherited from the PLO; is
8 that right?
9 A. Not in -- as far as I know, not in the
10 occupied territories. No.
11 Q. Are you familiar with something called the
12 Welfare Fund for Families of the Shahid and Wounded?
13 A. I'm not familiar.
14 Q. Do you -- do you know what the percentage
15 of land area in the -- in the West Bank is Area A?
16 A. I'm not sure exactly. But it's very small,
17 something like 1.1 percent, something like that.
18 Q. And do you know what the percentage of
19 population of Palestinian people who live in the West
20 Bank live in Area A?
21 A. I don't know for sure. No.
22 But in the West Bank, there are large numbers
23 of villages spread all over. And it's not as urbanized,
24 and -- and cities have not attracted all the people.
25 Because the West Bank is a small area and so people

OCTOBER 13, 2013 - RAJA SHEHADEH

1 live in villages and continue to live in villages.
2 So I'm not sure, but -- I'm not sure.
3 Q. And the -- the villages, are those Area B
4 or Area C or --
5 A. Both. Mainly in Area B. But there are some
6 villages in Area C as well.
7 Q. And when I say "villages," I mean villages
8 where Palestinian citizens live.
9 A. Palestinian villages. Yeah.
10 Q. Now, the powers of the police in -- within
11 Area A, with regard to Palestinian citizens, include
12 the power to make arrests?
13 A. That's right.
14 MR. HILL: Let me just lodge an objection
15 to the term "Palestinian citizens." I'm not sure what
16 you mean by that. I think it's vague.
17 But please respond.
18 MR. YALOWITZ: Sure. Is there -- that's a --
19 perhaps a fair objection. Let me probe around it a
20 little bit before we go to that line.
21 Q. BY MR. YALOWITZ: Is there a concept of
22 Palestinian citizenship?
23 A. Well, we say "Palestinian residents" because
24 it isn't a state yet. So we say "Palestinian
25 residents."

OCTOBER 13, 2013 - RAJA SHEHADEH

1 A. Yes. That is right.
2 But, again, I must say that it's complicated
3 by the fact that the police cannot go after people whom
4 they want to arrest if these people go to areas that the
5 Palestinian police have no jurisdiction to act within.
6 So this has given the police hardships. Because, if
7 they go to areas that the police cannot function in,
8 the police cannot go after them.
9 Q. So -- so is there any limit on the kinds
10 of crimes that an arrest can be made of a Palestinian
11 resident within Area A by the Palestinian police?
12 A. Well, the kind of offenses -- criminal
13 offenses are in the criminal law that is enforced
14 in the Palestinian Authority.
15 Q. So let me ask -- I'm not sure that answers
16 the question. I guess it's -- it's a fair limitation.
17 Is the -- is the -- is there -- are there
18 provisions of Palestinian criminal law that forbid
19 acts of violence against civilians?
20 A. Of course.
21 Q. And are those laws limited to Palestinians,
22 or do the laws also forbid acts of violence against
23 non-Palestinians?
24 A. The -- the law would say "acts of violence."
25 They would not say against whom. They would say "acts

OCTOBER 13, 2013 - RAJA SHEHADEH

54

1 Q. So why don't I use that term. I'll be
2 guided by you in this regard.
3 So within Area A and with regard to
4 Palestinian residents, do the police have the power
5 to make arrests?
6 A. They have the power to make arrests in the
7 areas in which they can function. So in -- in most
8 cities, they can function in all parts of the cities,
9 but not in all cities. So, for example, in Hebron,
10 they cannot function in parts of Hebron. And so
11 they cannot make arrests there.
12 Q. Well, Hebron seems complicated to me.
13 So let's leave Hebron out of Area A.
14 A. Yeah, but it's another Palestinian city.
15 Q. It's something of a special case; is that
16 true?
17 A. Well, it's only -- I mean, it's -- it's
18 one of the Palestinian cities which is under Area A,
19 although parts of it are not.
20 Q. So when I say "within Area A," I guess the
21 parts of Hebron that are not in Area A are automatically
22 excluded. So we can discuss it in those terms.
23 So within Area A and with regard to
24 Palestinian residents, the Palestinian police have
25 the power to make arrests; is that right?

OCTOBER 13, 2013 - RAJA SHEHADEH

56

1 of violence."
2 Q. And so the Palestinian police have the power
3 within Area A to make arrests of Palestinian residents
4 who are suspected of committing crimes of violence?
5 Is that fair to say?
6 A. That's right.
7 Q. And they have the -- the Palestinian police,
8 within that territory, have the power to interrogate
9 Palestinian residents who are suspected of acts of
10 violence?
11 A. That's right.
12 Q. And the Palestinian police have the power
13 within Area A to detain Palestinian residents who are
14 suspected of acts of violence?
15 A. That's right.
16 Q. And they have the power -- the Palestinian
17 Authority has the power within Area A to prosecute
18 Palestinian residents who are accused of committing
19 acts of violence; is that right?
20 A. That's right.
21 Q. And then, if those people are convicted,
22 the Palestinian Authority has the power to incarcerate
23 those Palestinian residents for committing acts of
24 violence if they're convicted?
25 A. That's right.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 Q. And does -- does Palestinian law give the
2 Palestinian Authority the power to detain individuals
3 suspected of acts of violence, Palestinian residents,
4 for a period of time within bringing them to trial?
5 A. No. They have to be brought to trial.
6 Q. Do they -- is there a speedy trial clock?
7 Do you know what that means --
8 A. I'm not familiar with criminal law. I'm --
9 I'm not. I've never practiced in criminal law. I'm
10 not familiar with the details of the criminal law.
11 Q. Did -- does the Palestinian -- do you know
12 whether the Palestinian law permits the Palestinian
13 police to question Palestinian residents before they
14 obtain a lawyer?
15 A. I'm not sure to tell you the truth. I'm
16 not -- I'm not familiar with the details of criminal
17 law.
18 Q. And just to come back to my line --
19 A. The right to have a lawyer is enshrined in
20 the basic law.
21 Q. And does -- does the -- does the PA pay for
22 a lawyer for the accused if the accused can't afford
23 to hire one?
24 A. I'm not familiar with the procedure.
25 Q. We have that.

OCTOBER 13, 2013 - RAJA SHEHADEH

58

1 A. I know.
2 Q. Just to come back to my line of questioning
3 before about Palestinian police and prosecutors, do
4 Palestinian police have the authority within Area A
5 to confiscate illegal weapons of any kind?
6 A. Yes, they do.
7 Q. Do you know what the PA's Ministry of
8 Information is?
9 A. I know there is a Ministry of Information.
10 But I don't know anything about the function.
11 Q. Do you know what the Ministry of Prisoners
12 and Released Prisoners does?
13 A. Again, I'm not familiar with it.
14 Q. Do you know whether there are PA-owned media
15 in the West Bank?
16 A. I don't know. I don't know.
17 Q. So --
18 MR. HILL: Kent, we've been going about an
19 hour and a half.
20 MR. YALOWITZ: Oh, this would be a good
21 time --
22 MR. HILL: Brenda needs a break.
23 MR. YALOWITZ: -- for me to take a break.
24 Let's take a break.
25 MR. HILL: Okay.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 (Recess from 11:04 a.m. to 11:16 a.m.,
2 after which Ms. Weiser was not present.)
3 Q. BY MR. YALOWITZ: Could you look with me
4 at Plaintiffs' 103? Do you -- and if you could turn
5 to Article XIX.
6 A. Uh-huh.
7 Q. Would you agree with me that Article XIX
8 imposes an obligation on both Israel and the PA to
9 exercise their powers and responsibilities pursuant to
10 the Interim Agreement with due regard to internationally
11 accepted norms and principles of human rights and the
12 rule of law?
13 A. I agree it does impose that obligation.
14 Q. And would you agree with me that, even without
15 Article XIX, both Israel and the PA have the obligation
16 to exercise their powers and responsibilities with due
17 regard to internationally accepted norms and principles
18 of human rights and the rule of law?
19 A. Absolutely, I do.
20 But I also must say that it has not fulfilled
21 this obligation by simply -- or -- or the possibility
22 of fulfilling that obligation is not secured by stating,
23 in so many words, that the two sides have to observe
24 that principle. Because that principle certainly
25 of the rule of law and of human rights requires the

OCTOBER 13, 2013 - RAJA SHEHADEH

60

1 ability of the sides -- the conditions should allow
2 for that possibility of fulfilling the rule of law.
3 So the PA -- let's leave Israel aside now,
4 which also does not observe the rule of law or -- or
5 the international law of human rights. But let's --
6 leaving that aside, the PA in the way it was structured
7 and the limitations that was put on it, I don't see
8 how it could have observed, in a meaningful sense,
9 human rights and the -- the rule of law.
10 Q. Is it -- is it your opinion that the PA
11 failed to observe internationally accepted norms and
12 principles of human rights and the rule of law?
13 MR. HILL: Objection. Vague.
14 THE WITNESS: Yeah, this is impossible to --
15 to give a judgment. But I can safely say that the
16 way the situation, both legal and territorial, was
17 and -- and -- and the terms of the agreement itself --
18 hampered the PA in serious and fundamental ways in --
19 in observing the rule of law and in human rights
20 principles.
21 Because if somebody is arrest -- has
22 committed a crime and runs and takes refuge in an
23 area not under the Palestinian Authority, then they
24 are unable to pursue that person -- criminal. So in
25 order to -- to have the ability to make criminals pay

OCTOBER 13, 2013 - RAJA SHEHADEH

1 for their actions, they must have jurisdiction that
2 enables them to fulfill this. And they don't.
3 Q. BY MR. YALOWITZ: So what do you think was
4 the purpose of including Article XIX in the Interim
5 Agreement?
6 A. I -- I think Israel and the PA wanted to
7 show the world that they will observe these principles.
8 And it's the declaratory thing that sounds good. And
9 I think to -- to make it real, to make -- I mean, it's
10 very difficult to -- the occupation continued after the
11 Interim Agreement. And the occupation and rule of law
12 are incompatible in many regards.
13 Q. So do you think that they included this and
14 didn't mean it?
15 A. I have no idea why they included it. I
16 wasn't privy to the negotiations. And I don't know
17 why they included it.
18 Q. Did -- was -- was it understood in the
19 Interim Agreement that the occupation would continue
20 for a period of time until a final agreement was
21 reached?
22 A. I don't think they went into that. But
23 there are no jurists and human rights organizations
24 that consider that, with the Interim Agreement, the
25 occupation ended.

OCTOBER 13, 2013 - RAJA SHEHADEH

62

1 Q. And I think that certainly the Interim
2 Agreement contemplated continued military presence
3 in the West Bank; right?
4 A. Certainly. That's right.
5 Q. And -- and the Interim Agreement contemplated
6 continued civilian population of Israel living in the
7 West Bank for a period of time; correct?
8 A. That's right.
9 Q. And -- and so those things were not only
10 well understood, but actually written out in the
11 agreement; right?
12 A. That's right.
13 I think one has to say that -- and understand
14 that the Oslo Accords were a process, the Oslo process.
15 And that process had many stages. And the first stage
16 was to create a Palestinian Authority, to create the
17 first agreement, Interim Agreement. And then -- and
18 then it would be followed by further negotiations and
19 withdrawals from the -- by the Army. Well, they didn't
20 call them withdrawals. They called them redeployment.
21 And as far as the Palestinians were concerned,
22 they assumed all along that this is a first step towards
23 a process that will lead to an independent Palestinian
24 state in the West Bank and the Gaza Strip.
25 Q. Now, you would agree with me that

OCTOBER 13, 2013 - RAJA SHEHADEH

1 international law forbids indiscriminate violence
2 against civilians; is that right?
3 MR. HILL: Objection. Vague.
4 Go ahead.
5 Q. BY MR. YALOWITZ: You can answer.
6 A. I -- I -- which civilians do you mean?
7 Q. Sure. So let's be a little more particular.
8 You mentioned before the 1977 additional
9 protocols to the Geneva Convention?
10 A. Uh-huh.
11 Q. That governs hostilities of national
12 liberation; is that correct?
13 A. Uh-huh.
14 Q. You have to say "yes."
15 A. Yes.
16 Q. Or "no." I mean, you can say whatever you
17 want. But you have to give a verbal response.
18 But it's "yes"?
19 A. Yes.
20 Q. And representatives of the PLO attended that
21 conference; right?
22 A. I don't know.
23 Q. And do you know whether the PLO has --
24 has indicated its commitment to abide by the 1977
25 additional protocols to the Geneva Convention?

OCTOBER 13, 2013 - RAJA SHEHADEH

64

1 A. I never looked into it. I don't know.
2 Q. Do you think that the 1977 additional
3 protocols to the Geneva Convention are the kind of
4 accepted norms and principles of human rights that
5 the parties were referring to in Article XIX of the
6 Interim Agreement?
7 MR. HILL: Objection. Lack of foundation.
8 You can respond.
9 THE WITNESS: I don't know. I don't know.
10 I wasn't part of that negotiation. I don't know what
11 they had in mind.
12 Q. BY MR. YALOWITZ: Right. I understand you
13 weren't part of the negotiations. But you're here as
14 an expert on matters of international law; isn't that
15 right?
16 A. Well, I mean, within my abilities and --
17 I mean --
18 Q. Didn't we go over, at the beginning, how you
19 were very familiar with human rights law, and we talked
20 about different sources and things like that?
21 A. Yeah. But you're asking about whether this
22 article was put with a view of something. And that is
23 intention, which I am not privy to know whether this
24 was their intention or -- or not.
25 Q. Well, how do you think a reasonable person

OCTOBER 13, 2013 - RAJA SHEHADEH

1 reading this agreement would view it?
2 MR. HILL: Objection. Vague.
3 Go ahead and respond.
4 THE WITNESS: Would -- a reasonable person
5 would feel about what?
6 Q. BY MR. YALOWITZ: So let me ask the
7 question.
8 Looking at Article XIX, as an expert on
9 international human rights law, understanding you
10 weren't present when the parties included it, would --
11 is it your understanding that one of the internationally
12 accepted norms and principles of human rights and the
13 rule of law is the 1977 additional protocols to the
14 Geneva Convention?
15 A. Yeah. I'm -- I'm sure they -- they meant
16 to -- to observe the rule of law and -- and human
17 rights principles.
18 And the -- the question that I have is
19 whether the agreement -- I mean, it's one thing to
20 declare "we want to" and another whether the agreement
21 and the reality that the agreement created allowed for
22 the -- these principles to be observed.
23 Q. The answer is that one of the internationally
24 recognized norms of human rights and the rule of law is
25 the 1977 additional protocols to the Geneva Convention;

OCTOBER 13, 2013 - RAJA SHEHADEH

1 Israeli citizens placed in the occupied territories
2 have been -- they're in violation of the international
3 law and, in specific, of the Fourth Geneva Convention.
4 Q. BY MR. YALOWITZ: Let -- let's assume, for
5 purposes of my question, that that's correct.
6 So assuming that the settlements in the
7 West Bank violate the Fourth Geneva Convention, do
8 you think that -- and, by the way, that -- that is a --
9 is it your understanding of international law that --
10 that the Fourth Geneva Convention operates on civilians
11 or operates on governments?
12 A. It operates on both levels.
13 Q. So -- so do you think that a civil -- your
14 understanding of international law is that a person
15 who is not in the Armed Services, say, a seven-year-old
16 child who lives in the West Bank, relinquishes his
17 rights under Article 51.2 of Additional Protocol I?
18 MR. HILL: Objection. Vague.
19 You can respond.
20 THE WITNESS: I think that Israel took no
21 chance in leaving the protection of its citizens who
22 are settling in the occupied territories under the
23 protection of the Palestinian Authority that -- that
24 they helped establish by these agreements.
25 And they made every effort, in very clear

OCTOBER 13, 2013 - RAJA SHEHADEH

66

68

1 correct?
2 A. Correct.
3 Q. And the Geneva Convention, in Article 52 [sic]
4 of the Additional Protocol I, provides that:
5 "The civilian population as such, as well as
6 individual citizens, shall not be the object of attack.
7 Acts or threats of violence, the primary purpose of
8 which is to spread terror among the civilian population,
9 are prohibited."
10 Are you familiar with that provision?
11 A. I am familiar with that provision. But you
12 must realize that the Geneva Convention of 1949 and --
13 and international law in general does not allow for
14 the occupying power to place its own citizens in the
15 occupied territories. So when they say "protect the
16 citizens and the civilians," they -- they cannot mean
17 civilians who are placed by the occupying authority
18 in the occupied territories.
19 Q. So is it your position, as an expert on
20 international law, that civilians who live in the
21 occupied territories are not protected by Article 51.2
22 of Additional Protocol I to the Geneva Convention?
23 MR. HILL: Objection. Vague.
24 Go ahead.
25 THE WITNESS: I think that the citizens --

OCTOBER 13, 2013 - RAJA SHEHADEH

1 terms, in all the agreements, at every point, repeated
2 over and over, that the security of Israeli citizens
3 are under responsibility of the Israeli government.
4 So that's the main thing. And that's been repeated
5 over and over and over. Israel did not take any
6 chance in -- in keeping its citizens under security
7 of the Palestinian Authority.
8 Q. BY MR. YALOWITZ: So -- so my question was
9 not about Israel.
10 My question was about our seven-year-old boy
11 who lives in the territories. Has he relinquished
12 his rights under the Geneva Convention to be free of
13 threats and acts of terrorism?
14 MR. HILL: Objection. Vague.
15 Go ahead.
16 THE WITNESS: He by being -- well, he isn't
17 a person who -- who decides. But his family, by placing
18 him in the occupied territories, are placing him in --
19 illegally in a place where they should not be.
20 Q. BY MR. YALOWITZ: I'm afraid you still
21 haven't answered my question. So let me ask it one
22 more time. Let me try it a little different way.
23 The question is: Does the Geneva Convention
24 Article 52 -- I'm sorry -- Article 51 of Additional
25 Protocol I apply to civilians living in the West Bank?

OCTOBER 13, 2013 - RAJA SHEHADEH

1 MR. HILL: Objection. Vague.
2 Go ahead.
3 THE WITNESS: I don't think the Geneva
4 Convention apply -- related to -- I mean, we have to
5 read it in terms of the principles.
6 And the principle that is clearly enunciated
7 in the Fourth Geneva Convention is that placing citizens
8 of the occupied -- occupying power in the occupied
9 territories is illegal.
10 Now, every person, regardless of his status,
11 has the right to life and right to -- to being free
12 from violence. So, in that sense, a seven-year-old
13 has the freedom -- has the right to be protected. Yes.
14 Q. BY MR. YALOWITZ: So I'm -- I'm going to
15 read you a statement, and I'm going to ask you if
16 you agree with it or disagree with it.
17 "Under international humanitarian law, a
18 failure by one party to a conflict to respect the laws
19 of war does not relieve the other of its obligation
20 to respect those laws."
21 Do you agree with that?
22 A. Read it again.
23 Q. (Reading.)
24 "Under international humanitarian law, a
25 failure by one party to a conflict to respect the laws
OCTOBER 13, 2013 - RAJA SHEHADEH

70

1 of war, does not relieve the other of its obligation
2 to respect those laws."
3 A. I agree.
4 Q. I'm going to read you another statement, and
5 I'm going to ask you if you agree with it.
6 "The Geneva Convention specifically prohibit
7 reprisals against civilians, private property of
8 civilians in occupied territory, or enemy foreigners
9 on friendly territory."
10 Do you agree with that?
11 MR. HILL: Objection. The statement itself
12 is vague. But the witness can respond whether he
13 agrees or disagrees.
14 THE WITNESS: I think it's too vague to --
15 to -- to say whether I agree or not.
16 Q. BY MR. YALOWITZ: Okay. We'll come back
17 to it perhaps.
18 Do you -- do you have an understanding,
19 under international law, of what the PLO is today?
20 A. No, I don't. I haven't looked into this.
21 I have an understanding of where the PLO
22 fits in the scheme of things in the Oslo Accords, in
23 the occupied territories, because this was specifically
24 stated and reference was made to it. And -- and the
25 role of the PLO was specifically specified in the
OCTOBER 13, 2013 - RAJA SHEHADEH

1 Interim Agreement.
2 Q. Could you share with us that understanding,
3 please?
4 A. Yeah. In the -- there is a specific provision
5 which gives the powers of the PLO that -- that it can
6 exercise under the Interim Agreement.
7 Q. Are you having a little trouble locating
8 the proceedings?
9 A. Yeah. I remember the provision as giving
10 power to sign agreement -- economic agreements. And
11 I referred to it in my statement. It -- it comes in
12 the -- early -- in the early articles.
13 Q. Did -- did the -- was it expected that the
14 PLO would continue negotiations for further agreements?
15 A. It was expected. And -- and the article says
16 all -- it has the right to sign agreements with third
17 parties.
18 Q. Was it expected that the PLO would maintain
19 its status at the United Nations?
20 A. It was expected, although it wasn't stated.
21 Q. Do you think that the -- I'm sorry. I can't
22 find it either. I have it in mind as well.
23 A. It is definitely in the agreement.
24 Q. Do you -- do you think that the PLO had
25 obligations to support and fulfill the responsibilities
OCTOBER 13, 2013 - RAJA SHEHADEH

72

1 undertaken by the PA in this agreement?
2 A. I'm sorry. Could you repeat the question?
3 Q. Sure. Let me -- let me ask it a little
4 different way so that --
5 MR. HILL: Do you still want him to try and
6 find the reference in the Interim Agreement? If you do,
7 you should let him do that. If you don't, he can set
8 it aside, and you can pose him your question.
9 MR. YALOWITZ: Sure.
10 MR. HILL: You shouldn't make him multitask.
11 MR. YALOWITZ: Sure. That's a fair objection,
12 although an unconventional one.
13 Q. BY MR. YALOWITZ: Why don't we look together
14 at Article IX. Perhaps we can find it and then move
15 to the next task.
16 A. Yeah. Article IX, 5.b:
17 "The PLO may conduct negotiations and sign
18 agreements with states or international organizations
19 for the benefit of the council," including -- (As
20 read.)
21 And that's -- that's the one I was looking
22 for.
23 Q. Thank you.
24 A. I thought it came in the earlier parts. So
25 I was looking in the earlier parts.
OCTOBER 13, 2013 - RAJA SHEHADEH

1 Q. Do you think that the PLO had any obligations
2 with regard to this agreement, even though most of the
3 provisions deal with the rights and responsibilities
4 of the PA?

5 A. I don't -- I don't think so. I think the
6 responsibilities that were specified and transferred
7 by Israel were transferred to the Palestinian Authority.

8 Q. So the PLO -- if the PLO -- the PLO was still
9 going to exist -- right? -- continue as an organization?

10 A. Right.

11 Q. And so suppose the PLO -- like just look with
12 me at the next page from where you are, paragraph 6:

13 "Subject to the provisions of this agreement,
14 the council shall, within its jurisdiction, have an
15 independent judicial system."

16 And it goes on from there.

17 A. Uh-huh.

18 Q. So suppose that the PLO interfered with the
19 independence of the judiciary.

20 Would that -- in your judgment, would that
21 be consistent with the obligations it undertook in
22 the Interim Agreement?

23 A. No. They -- nobody should interfere with
24 the independence of the judiciary, neither the PLO,
25 nor anybody else.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 Q. Is it -- is it an international norm --
2 internationally accepted norm to have an independent
3 judiciary?

4 A. Well, the rule of law -- the principles of
5 the rule of law require that there be independence of
6 the judiciary.

7 Q. Is it your understanding that the -- Israel
8 and the PA undertook an obligation to foster mutual
9 understanding and tolerance?

10 A. The way I understand it is, when the
11 negotiations started, they -- hopefully on both sides,
12 but I can speak more of the Palestinian side -- wanted
13 to start a new era and one where negotiations would
14 lead to the end of the conflict and one where, in
15 a process which is gradual, they would arrive at
16 a situation where there is tolerance and peace and
17 justice between the two sides.

18 Q. Did the -- did Israel and the PA undertake
19 an express obligation to abstain from incitement?

20 A. Yes, they did. But the main thing is that
21 the aim of the negotiations, which is in the Declaration
22 of Principles, Article I, is -- among other things,
23 established a Palestinian interim self-government
24 authority for a -- for a period of five -- five years,
25 leading to a permanent settlement based on Security

OCTOBER 13, 2013 - RAJA SHEHADEH

74

76

1 Q. So is it fair to say the PLO had something
2 of an obligation of non-interference?

3 A. Well, the way I see it is the -- the life and
4 the running of affairs in the occupied territories was
5 determined by these documents, by these agreements. And
6 anything that violates these documents and agreements
7 is in violation of the agreement. So these agreements
8 do not put any rights and obligations on the PLO beyond
9 what is mentioned in the Article IX.

10 Q. And the other thing -- well, you just
11 mentioned one that's not mentioned in Article IX
12 that you thought would violate -- violate something.
13 I don't know what it violates.

14 If the PLO -- what -- what's wrong with the
15 PLO interfering with the independence of the judiciary?

16 A. Because the judiciary should be independent
17 from any executive. Even if the PA should interfere
18 in the independence of the judiciary, that would be
19 a violation.

20 Q. Is that a -- an international law matter,
21 or what is it?

22 A. Well, the basic law which is in force in
23 the Palestinian Authority area says the law should
24 be the only governing thing and -- and no -- and the
25 judiciary should be independent from any interference.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 Council Resolution 242 and 338.

2 And then the preamble is very important.
3 The government of Israel and the -- and the Palestinian
4 team, representing the Palestinian people, agree that
5 it is time to put an end to decades of confrontation
6 and conflict, recognize their mutual legitimate and
7 political rights, and strive to live in peaceful
8 coexistence and mutual dignity and security to achieve
9 a just, lasting, and comprehensive peace settlement
10 and historic reconciliation between the agreed political
11 process -- through the agreed political process.

12 Q. So did the -- Israel and the PA undertake
13 an express obligation to take legal measures to prevent
14 incitement by any organization, group, or individual
15 within their jurisdiction?

16 A. That's right.

17 Q. And Israel and the PA agreed to cooperate
18 on matters of legal assistance in criminal and civil
19 matters through a legal committee; is that right?

20 A. That's right.

21 Q. And the parties agreed that the PA would
22 establish a strong police force; right?

23 A. That's right.

24 Q. And that police force was responsible for
25 internal security and public order in Area A; is that

OCTOBER 13, 2013 - RAJA SHEHADEH

1 right?

2 A. That's right. Excluding the matters that

3 were outside of its jurisdiction, which is the security

4 of Israelis and settlers.

5 Q. Can we look at Article XIII, paragraph 1,

6 together?

7 MR. HILL: This is of the Interim Agreement?

8 MR. YALOWITZ: Yes.

9 THE WITNESS: Yes.

10 Q. BY MR. YALOWITZ: It says:

11 "The council will, upon completion of

12 the redeployment of Israeli military forces in each

13 district, as set out in Appendix 1 to Annex I, assume

14 the powers and responsibilities for internal security

15 and public order in Area A in that district."

16 A. That's right.

17 Q. Do you agree that that was true?

18 A. That's what was decided. Yes.

19 Q. What -- what does "internal security" mean?

20 A. Well, it has to be interpreted in relationship

21 to the rest of the agreement and the Proclamation No. 7,

22 which was a proclamation implementing the agreement

23 by -- by Israel -- by the Israeli Civil Administration.

24 And -- and in all these documents, including the DOP

25 and the Interim Agreement, the -- the responsibility

OCTOBER 13, 2013 - RAJA SHEHADEH

1 Q. BY MR. YALOWITZ: Now, the agreement

2 provided that nobody other than the Palestinian

3 police and the Israeli military could:

4 "Manufacture, sell, acquire, possess, import,

5 or otherwise introduce into the West Bank or the Gaza

6 Strip any firearms, ammunition, weapons, explosives,

7 gunpowder, or any related agreement."

8 A. Which article are you referring to?

9 Q. I'm looking at XIV.4.

10 A. Uh-huh.

11 Q. Do I have that right?

12 A. Uh-huh. That's right.

13 Q. That was -- that was an express obligation

14 undertaken by the PA; correct?

15 A. That's right. But then, in order for that

16 to be enforceable and realizable, the PA should have

17 had jurisdiction over the entire region, territory.

18 And they didn't.

19 Q. So -- so is it fair to say that within

20 Area A -- well, let me ask you this.

21 Suppose that the Palestinian police found

22 out that there was an individual with large supplies

23 of explosives in Area A. Would you say that they

24 would have an obligation, under Article XIV, to take

25 corrective action?

OCTOBER 13, 2013 - RAJA SHEHADEH

1 over settlements, Israelis, are excluded from the

2 responsibility of the council and the Palestinian

3 police.

4 Q. Is it -- I think the language that the

5 agreement uses is the -- that Israel shall continue

6 to carry the responsibility for overall security

7 of Israelis and settlements.

8 Is that right?

9 A. That's right.

10 Q. The Palestinian police had responsibilities

11 of cooperation in that regard?

12 Is that fair to say?

13 A. That's right.

14 Q. The agreement provided that the only armed

15 forces established -- the only armed forces permitted

16 in the West Bank and the Gaza Strip would be the

17 Palestinian police and the Israeli military forces;

18 is that right?

19 A. That's right.

20 MR. HILL: Kent, I don't want to interrupt

21 your question. But would you mind specifying which

22 provision you're reading from so at least I can follow

23 along? Thank you.

24 MR. YALOWITZ: I'll -- I'll take your request

25 under advisement.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 A. If they knew of the presence of weaponry, yes,

2 they do have an obligation.

3 Q. Now, in Article XV, both sides undertook to

4 take all measures necessary in order to prevent acts

5 of terrorism; is that right?

6 A. That's right.

7 Q. And that included acts of terrorism directed

8 against individuals falling under the other's authority;

9 right?

10 A. Uh-huh.

11 Q. You have to say "yes" or "no."

12 A. Yes. That's right.

13 Q. And -- and they had -- they undertook an

14 obligation to take legal measures against offenders;

15 is that right?

16 A. That's right.

17 Q. So, for example, if -- if an Israeli went

18 to an Arab village or to Ramallah and committed an

19 act of violence against Palestinian residents, Israel

20 undertook an obligation to prosecute that person and

21 punish him; right?

22 A. Not only that. If an Israeli, including

23 Israeli settlers, took violence -- had acted violently

24 against Palestinians or their property anywhere, not

25 only in Area A, they had the obligation to -- to take

OCTOBER 13, 2013 - RAJA SHEHADEH

1 action.

2 And in the course of these -- from the
3 time of the Interim Agreement to this day, Israel
4 has consistently failed in doing that. So many acts
5 of violence committed by the settlers have not been
6 punished, and they continue all the time. And they
7 have been ongoing since the beginning of the Oslo
8 Accords.

9 Q. And do you agree with me that, if -- if
10 a person who was injured by reason of that kind of
11 act could -- could go to a court of law and show
12 who's responsible, the people who are responsible
13 and the entities who are responsible should be held
14 to account?

15 A. Absolutely. And in the -- in the course
16 of these years, so many Palestinians have complained
17 to the Israeli police and continue to complain to
18 Israeli police. And the record of the Israeli police
19 and Army in following these matters is very, very bad.
20 They -- they never, if ever, pursue the perpetrator
21 of the acts of violence against the Palestinians.

22 Q. And, conversely, you would agree with me
23 that an Israeli who's injured in his personal property
24 by reason of an act of violence by a Palestinian should
25 be able to go to court and hold those responsible to

OCTOBER 13, 2013 - RAJA SHEHADEH

1 the rest of the agreement places huge limitations and
2 responsibilities on the Israeli security forces to take
3 actions against perpetrators who commit actions against
4 their people or against Israelis and settlers.

5 Q. Does -- are you -- do you have Article XV
6 before you?

7 A. Yeah.

8 Q. Does it say both sides shall take measures
9 that are practically available in order to prevent
10 acts of terrorism?

11 A. No. It doesn't say that.

12 Q. Does it say both sides shall take measures
13 that -- that are exclusive to their own territory in
14 order to prevent acts of terrorism?

15 A. No. But it -- it cannot be read in isolation
16 of the rest of the agreement, which says -- limits
17 maneuverability and jurisdiction over those who are
18 responsible for security.

19 Q. Do you understand that Israelis are not
20 allowed to enter Area A?

21 A. Do I understand?

22 Q. Yes.

23 A. This only came into force much later.

24 Q. I see. Do you -- do you think that -- well,
25 do you see it says:

OCTOBER 13, 2013 - RAJA SHEHADEH

82

1 account?

2 A. Well, it depends where the act has been
3 committed. If the action has been committed outside
4 of the jurisdiction of the Palestinian areas, then
5 it's difficult to see how the Palestinian Authority
6 can be held responsible.

7 Q. So is it your opinion that all measures
8 necessary in order to prevent an act of -- acts of
9 terrorism only applies to terrorism that occurs in
10 Area A?

11 A. Well, in terms of practical implementation
12 of this, the -- the Palestinian Authority can only
13 be held responsible for acts that are committed in
14 the areas over which it has authority, over which it
15 can act, over which it can send its -- its security
16 forces to take action.

17 Q. So let's distinguish among the legal and
18 the practical.

19 As a de jure matter, as a legal matter,
20 you and I agree that all measures necessary in order
21 to prevent acts of terrorism are not limited to acts
22 of terrorism that physically take place in Area A;
23 right?

24 A. Not exactly. Because, again, it has to be
25 read in the context of the rest of the agreement. And

OCTOBER 13, 2013 - RAJA SHEHADEH

84

1 "Specific provisions for the implementation
2 of this article are set out in Annex I."

3 A. Uh-huh.

4 Q. Do you see that?

5 A. Yeah.

6 Q. And that's a -- that's an integral part of
7 the agreement; right?

8 A. Annex I, yeah, which is about the police and
9 the powers of the police.

10 Q. And I think we went over earlier -- you said
11 you didn't know much about the police; is that right?

12 A. Well --

13 MR. HILL: Objection. Misstates his
14 testimony.

15 Go ahead.

16 Q. BY MR. YALOWITZ: You said you didn't know
17 who --

18 A. No.

19 Q. -- Force 17 was; right?

20 A. I -- I know about the powers of the police,
21 which are stated in the agreement.

22 Q. Who -- who is Force 17 again?

23 A. I don't know who is Force 17. I know that
24 there is a Palestinian police, which is established
25 under the Palestinian Authority.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 Q. Now -- now, why don't we -- why don't we
 2 look together at Annex I. Shall we do that? We're
 3 going to mark Annex I to the Interim Agreement as
 4 Plaintiffs' 104.
 5 (Plaintiffs' Exhibit 104 marked.)
 6 Q. BY MR. YALOWITZ: Do you have what we've
 7 marked as Plaintiffs' 104?
 8 A. (Examining.) I do.
 9 Q. And indeed does it appear to be Annex I
 10 to the Interim Agreement?
 11 A. Well, it appears to be that. But I haven't
 12 checked it.
 13 Q. Sure. It's -- it's a lengthy document.
 14 I must confess that I haven't -- I have not myself
 15 gone over it word for word.
 16 But it seems to -- it certainly purports
 17 to be Annex I; right?
 18 A. It purports to be Annex I. That's right.
 19 Q. And you're familiar with Annex I; right?
 20 A. I am.
 21 Q. And it's -- it's -- if you notice anything
 22 that jumps out at you as incorrect, you'll let me know,
 23 won't you?
 24 A. Yeah.
 25 Q. Thank you.

OCTOBER 13, 2013 - RAJA SHEHADEH

86

1 Article II is -- what -- what's the focus
 2 of Article II?
 3 A. (Reading.)
 4 "Security Policy for the Prevention of
 5 Terrorism and Violence."
 6 Q. Fair to say this was a subject that was dealt
 7 with expressly in Annex I?
 8 A. Yeah.
 9 Q. And -- and it -- the parties agreed that
 10 the Palestinian police would be the only Palestinian
 11 security authority; right?
 12 A. Right.
 13 Q. And the parties agreed that the Palestinian
 14 police would act systematically against all expressions
 15 of violence and terror; right?
 16 A. Right.
 17 Q. And there was no limitation there to violence
 18 and terror occurring in Area A; right?
 19 A. Well, there -- there didn't need to be a
 20 limitation specified here. Because it's understood
 21 that all of this Annex I to the Interim Agreement
 22 is part of the Oslo Declaration of Principles. And
 23 anything limiting the power of the police and security
 24 forces -- Palestinian security forces are, thereby,
 25 limited. So they didn't have to keep repeating it.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 Q. So would you agree with me that, within the
 2 authority that was provided to the Palestinian police,
 3 which we went over earlier, the Palestinian police had
 4 a duty to act systemically [sic] against all expressions
 5 of violence and terror?
 6 A. Yeah, they did.
 7 Q. Thank you.
 8 Do you agree with me that the Palestinian
 9 police were obliged to confiscate any illegal arms?
 10 A. If they found them, yes.
 11 Q. Do you agree with me that the Palestinian
 12 police were obliged -- again, within the authority
 13 assigned to them, Area A, Palestinian residents --
 14 they were obliged to arrest and prosecute individuals
 15 who were suspected of perpetrating acts of violence
 16 and terror?
 17 A. Yeah. But we have to take into consideration
 18 the atmosphere that existed at the time. And without
 19 taking that context into consideration, there is a
 20 terrible distortion that results.
 21 Because when the Oslo Accords and Oslo
 22 process began, there was a lot of hope and expectation
 23 by the Palestinians that this would lead to peace and
 24 resolution of -- of conflict. And then Rabin, who --
 25 who was very much responsible for the agreement and

OCTOBER 13, 2013 - RAJA SHEHADEH

88

1 made a breakthrough in Israel by signing this agreement,
 2 was murdered by an extremist who was on the side of
 3 those who did not like this reconciliation and the
 4 Oslo Accords.
 5 And, in 1996, Netanyahu -- Prime Minister
 6 Benjamin Netanyahu took over the government and
 7 immediately stated that the settlement -- Israeli
 8 settlements would continue. And this made -- was
 9 made part of his program. And then he was followed
 10 by Barak, who did the same, and Sharon, who did the
 11 same.
 12 And all of this was acts of incitement by
 13 the Israeli government against the Palestinians and
 14 made it very difficult for the Palestinian police to
 15 fulfill obligations that they have, which they made
 16 on the basis that there was going to be a process that
 17 was leading to a reconciliation and peace.
 18 In addition, in 1996, in September, there
 19 was another provocative act -- action by the -- and --
 20 and -- and there are many more. But I'm mentioning
 21 examples, which is the digging and opening of the
 22 tunnels, which created a lot of worries and fears
 23 by the Palestinians about the status of the religious
 24 places and the Dome of the Rock, which is the third
 25 holiest shrine, mosque in Islam.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 And there were demonstrations. And a large
2 number of people were shot and killed and a large number
3 were injured by the Israeli police. So the Israeli
4 government and security forces made no attempt to calm
5 things down, to inform the Palestinians, coordinate
6 with the Palestinians on things that they were going
7 to do in order to reduce conflict and incitement.
8 And so that made it very difficult for the Palestinian
9 police to act.

10 MR. YALOWITZ: I'm sorry, Brenda. Could
11 I have the question back?

12 (Last question read.)

13 Q. BY MR. YALOWITZ: So let me just ask the
14 question again. And I appreciate the fulsomeness of
15 your answer.

16 But just focused on the question: In the
17 Interim Agreement, the Palestinian police undertook
18 an obligation to confiscate illegal arms; is that right?

19 MR. HILL: Objection. Asked and answered.
20 Go ahead.

21 THE WITNESS: Yeah. That's right.

22 Q. BY MR. YALOWITZ: Thank you.

23 Now, the Palestinian police undertook an
24 obligation in the Interim Agreement to act to ensure
25 the immediate, efficient, and effective handling of

OCTOBER 13, 2013 - RAJA SHEHADEH

90

1 any incident involving a threat or act of terrorism;
2 correct?

3 A. Correct.

4 Q. And the Palestinian police undertook an
5 obligation to immediately and effectively respond to
6 the occurrence or anticipated occurrence of an act of
7 terrorism; correct?

8 A. Correct.

9 But, again, all of this is done at the
10 initial stages of a process which was then seeming very
11 hopeful. And then the Israeli side made it less hopeful
12 by continuing with processes that, to the Palestinians,
13 seemed like entrenchment of the occupation and further
14 deprivation of rights to property and to the possibility
15 of a Palestinian state.

16 And then, furthermore, the Palestinian -- the
17 Israeli Army made it more difficult for the Palestinian
18 police to act by shooting at demonstrators. When the
19 Palestinian police tried to keep them away from the
20 point of confrontation, they shot at the police and --
21 and incited the police and made it -- made their job
22 very difficult.

23 And then all throughout the period, there
24 were attacks on police installations and obstruction
25 of means -- I mean, you know, you -- you're talking

OCTOBER 13, 2013 - RAJA SHEHADEH

1 not about an established police. You're talking about
2 a very new and fresh and inexperienced police, which
3 was trying very hard to establish itself. And the
4 police is part of the population. It's not an
5 imposed -- group of people imposed on the population.
6 So the -- the -- the acts of Israel, both in
7 terms of policies that it pursued and violence against
8 Palestinians and against the police, made the job of
9 the police very difficult and made these principles that
10 were agreed to difficult to fulfill because they were
11 not being respected by the power which is the stronger
12 power, which is Israel, which had full control over
13 security in the area.

14 Q. Mr. Shehadeh, are you an expert on police
15 work?

16 A. No.

17 Q. Are you an expert on penology?

18 A. No.

19 Q. Are you an expert on military affairs?

20 A. No. But I'm a resident of the territories.
21 And all these matters happened when I was living there.
22 And I could feel and see and read the -- the reactions
23 of people and pursued and followed the developments
24 as they occurred. So I'm --

25 Q. Do you have -- did you ever -- did you know

OCTOBER 13, 2013 - RAJA SHEHADEH

92

1 Arafat?

2 A. Yeah.

3 Q. Did you speak to him about these matters?

4 A. No. I wasn't -- I'm -- I've never been a
5 political person. So I never had any political role
6 or interfered. No.

7 Q. You -- you've never served in the military;
8 right?

9 A. No.

10 Q. You've never --

11 A. I'm against the military.

12 Q. You -- you've never served in the police
13 force; right?

14 A. No. No. I'm for non-violence in all ways
15 and means.

16 Q. In fact, I think you would agree that -- with
17 me that violence is not an excuse to beget additional
18 violence; right?

19 A. It is certainly not. And I think violence
20 is no answer to anything.

21 Q. So -- so just coming back to Article II,
22 where each side undertook an obligation to actively
23 prevent incitement to violence -- is that right?

24 A. Yeah. But I think it's folly to interpret
25 violence only in -- in a narrow sense. I think violent

OCTOBER 13, 2013 - RAJA SHEHADEH

1 actions include settling people in other people's lands.
 2 That's a violent action.
 3 And -- and if we're talking about violence,
 4 we have to interpret violence in the correct way, which
 5 includes acts of settling other people on the land of
 6 others and depriving the people of a land who -- and the
 7 land has scarce resources -- from the scarce resources
 8 of land and water --

9 Q. Actually, my --

10 A. -- and access.

11 Q. My question was about inciting violence.

12 A. Yeah, inciting violence.

13 Q. So -- so whether there was or was not --
 14 whether -- each -- each side had grievances; right?

15 Both sides have grievances?

16 A. More than grievances, I would say.

17 Q. And -- and those grievances do not excuse
 18 incitement to violence; right?

19 A. They do not excuse incitement to violence.
 20 But if we want to speak about incitement of -- to
 21 violence, we have to look at both sides and look at
 22 both sides equally.

23 Recently, there was a study of the
 24 curricula in Israeli schools. And the incitement
 25 against Arabs in Israeli schools and in the Army is

OCTOBER 13, 2013 - RAJA SHEHADEH

1 agreement without thinking of "within its means."
 2 And it certainly limits the -- the means and the
 3 maneuverability of the agreement -- doesn't limit.

4 Q. Let's -- let's talk about the Palestinian
 5 police.

6 Would you agree that, in Article IV of
 7 Annex I, the Palestinian police had to carry out
 8 duties and functions or -- let me start over.

9 Why don't you turn to Article IV and have
 10 it before you before I ask you a question about it.

11 A. Uh-huh.

12 Q. Do you have it?

13 A. Yeah.

14 Q. Article IV details the duties and functions
 15 of the Palestinian police in Section 1; is that right?

16 A. Uh-huh.

17 Q. "Yes"?

18 A. Yes.

19 Q. And they had a duty and function of
 20 maintaining internal security and public order --

21 A. Uh-huh.

22 Q. -- correct?

23 A. Correct.

24 Q. And they had a duty and function of combating
 25 terrorism and violence; correct?

OCTOBER 13, 2013 - RAJA SHEHADEH

94

96

1 tremendous. And -- and this has been going on for
 2 a long time. And -- and that is, again, incitement
 3 which leads to violence just as much.

4 Q. Mr. Shehadeh, is the government of Israel
 5 a defendant in this lawsuit to your knowledge?

6 A. No. But we're talking about a situation
 7 which the government of Israel is responsible for.
 8 I mean, there is not --

9 Q. So are you saying that the Palestinian
 10 Authority is not responsible for its actions?

11 A. The actions within its jurisdiction it's
 12 responsible for. Yes.

13 Q. And you understand that the Palestinian
 14 Authority undertook, in the Interim Agreement, to
 15 refrain from incitement; correct?

16 A. That's right.

17 Q. And you understand that the Palestinian
 18 Authority undertook, in the agreement, an obligation
 19 to apprehend, investigate, and prosecute perpetrators
 20 and persons directly or indirectly involved in acts
 21 of terrorism; correct?

22 A. Correct. Within its means.

23 Q. Well, is that what the agreement says? Does
 24 the agreement say "within its means"?

25 A. It doesn't. But you cannot read the

OCTOBER 13, 2013 - RAJA SHEHADEH

1 A. Correct.

2 Q. And they had a duty and function of preventing
 3 incitement to violence; correct?

4 A. Correct.

5 Q. Now --

6 A. However -- however, all of this has to be
 7 read in -- in relationship to Article I, which says
 8 nothing -- Article I.7, which says:

9 "Nothing in this article shall derogate
 10 from Israel's security powers and responsibilities
 11 in accordance with this agreement."

12 And -- and these include large areas and
 13 large sectors of the people residing in the occupied
 14 territories.

15 Q. The Palestinian police had -- had a number
 16 of sections -- right? -- a number of branches?

17 A. Yeah.

18 Q. And that's true today; right?

19 A. Yeah.

20 Q. By the way, the -- the Interim Agreement
 21 is a legally operating document even today; right?

22 A. Yeah.

23 Q. So there's something called the civil police;
 24 right?

25 A. Uh-huh.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 Q. What -- what do they do?
 2 A. Traffic and civil matters.
 3 Q. Then there's something called public security?
 4 A. Yeah.
 5 Q. What do they do?
 6 A. I don't know. I don't know the details.
 7 Q. Then there's something called preventative
 8 security?
 9 A. Yeah.
 10 Q. What do they do?
 11 A. I think -- I'm not sure. But I know that
 12 the preventative security headquarters were bombed
 13 by the -- by Israel. And what I do know is that all
 14 these police branches were rudimentary in the beginning.
 15 Because there was -- when the PA took over, there was
 16 no police force whatsoever. And so they were trying
 17 to establish a police force and --
 18 Q. How do you know that?
 19 A. I know that because during -- prior to the --
 20 to the Oslo Accords, the only police force was the
 21 Israeli police force in the area. And then, when
 22 the Palestinians took over, they had to start from
 23 scratch.
 24 Q. You understand that the PLO had armed
 25 factions?

OCTOBER 13, 2013 - RAJA SHEHADEH

1 for -- for the individual living in the area was very
 2 precarious. They were -- they were making an effort
 3 to -- to establish and organize.
 4 And -- and, in fact, Israel was not very
 5 helpful in that. Because when -- for example, I know
 6 of the preventative security headquarters. They were
 7 rather elaborate, I was told. And I saw the building
 8 from the outside. And -- and they built headquarters
 9 for the police as well in Ramallah other than the old
 10 headquarters. And they were trying to organize this
 11 structure. And then, in more than one case, Israel
 12 bombed the headquarters. And so the police had to
 13 go to -- you know, spread around. And -- and it was
 14 rather pathetic.
 15 Q. You were never in the preventative security?
 16 A. Sorry?
 17 Q. You were never in the preventative security
 18 police force; right?
 19 A. No, of course not.
 20 Q. Did you ever provide legal advice to the
 21 preventative --
 22 A. No, no, no.
 23 Q. -- security police force?
 24 A. No.
 25 Q. Did you ever -- did you ever go into their

OCTOBER 13, 2013 - RAJA SHEHADEH

98

100

1 A. Yeah.
 2 Q. And -- and you understand that many of
 3 those -- many of the people who were in those armed
 4 factions then joined the Palestinian police force;
 5 right?
 6 A. Yeah, they did. But, you know, you don't --
 7 Q. In fact --
 8 A. The police force is -- is a -- is a very
 9 highly developed structure which has to have traditions
 10 and order and -- and structures that enable it to keep
 11 control and -- and fulfill its mission well. And so
 12 the people who came from the outside were not the police
 13 force. I mean, they were -- they were doing liberation
 14 action outside.
 15 Q. Is it your testimony that the armed factions
 16 of the PLO were disorganized and -- and lacked training
 17 and skill?
 18 A. As far as I could tell, from my direct
 19 experience in the area, when the police force was
 20 established, it didn't -- it -- it would take time for
 21 a police force to -- I mean, they -- they didn't start
 22 from day one being well-established, well-coordinated,
 23 well-structured with -- with the traditions that are
 24 a necessity for a police force.
 25 The traffic was a mess. The sense of security

OCTOBER 13, 2013 - RAJA SHEHADEH

1 offices?
 2 A. No, I never did. But --
 3 Q. Did you ever read legal studies on how they
 4 operated?
 5 A. No. But I read about the police force
 6 from reports. And -- and there's a whole book that
 7 I mentioned in my testimony [sic] about the police
 8 force. So -- so my -- my --
 9 Q. You wrote a --
 10 A. I think it --
 11 Q. You wrote a book about the police force?
 12 A. It's -- it's in Norwegian. I -- I have a
 13 reference here if you want me to look it up. But --
 14 Q. Which book?
 15 A. -- my -- my --
 16 Q. I'm sorry. Which book?
 17 A. It's called -- it's called "A Police Force
 18 Without a State," Lia Brynjar. On page 25 of 40 I
 19 make reference to it.
 20 Q. All right. Thank you.
 21 A. But my point is that we cannot expect that
 22 a police force which has such difficult objectives
 23 to fulfill is going to arise in a day or two or in --
 24 even in a year or two. And -- and if we are to
 25 assess the work of that police force and its failures

OCTOBER 13, 2013 - RAJA SHEHADEH

1 and successes, we have to take into consideration
2 the conditions under which they were operating and
3 the experiences which -- which were very limited --
4 Q. Do you know what --
5 A. -- and -- and the Israeli policies, which
6 made life for the police very, very difficult. Because
7 it made it seem as though the police was agents of
8 the -- of the Israelis.
9 Q. Do you know what Amn Al-Ri'asah is?
10 A. Amn Al-Ri'asah.
11 Q. Say it again.
12 A. Amn Al-Ri'asah. "Amn" means security. And
13 "Ri'asah" means "presidency." So Amn Al-Ri'asah.
14 Q. What is that?
15 A. I think -- I suppose it's like "presidential
16 guard."
17 Q. And what about intelligence, what was their
18 job?
19 A. Well, I suppose gathering intelligence. But
20 I have no idea how much they did or what they did.
21 Q. And -- and Amn Al-Ri'asah -- Amn Al-Ri'asah --
22 A. Amn Al-Ri'asah, which I suppose --
23 Q. -- do you know what they did?
24 A. I suppose to protect the "ri'asah," which
25 is the -- the president and the head of the Palestinian

OCTOBER 13, 2013 - RAJA SHEHADEH

102

1 Authority.
2 Q. And emergency services and rescue, what did
3 they do?
4 A. I don't know.
5 Q. The Palestinian coastal police unit, do you
6 know what they did?
7 A. I don't. I don't.
8 But I -- what I -- what I do know is that
9 they were having great difficulty organizing and getting
10 the police force to be functional in a proper manner.
11 And then the -- the European authority started putting
12 a lot of money. And there is now -- there has been
13 for a while experts who have been helping the police
14 organize and -- and are -- have a presence in the --
15 in Ramallah, actually, and spend a lot of money on
16 getting the police to organize. And they have made
17 good inroads in that. And -- and there's a police
18 academy even, which has been established in Jericho.
19 So none of this was in the beginning. And
20 it took many years for that to -- to happen. And once
21 it happened, there was more efficiency of the police.
22 But it -- it started without the means, the traditions,
23 the experience of the police force. And Israel made
24 it very, very difficult by its actions and its policies
25 for a local police force to -- to operate.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 Q. Do you know how many --
2 A. But -- sorry. I -- I want to add.
3 My reading of the whole thing -- and -- and
4 that goes back to the Camp David agreement with Egypt --
5 between Egypt and Israel. From that time, the Israeli
6 position has been consistent. And we see it -- we see
7 it reflected in the Interim Agreement.
8 From '79, the basis for the agreement with
9 the Palestinians included a strong police force to
10 relieve the Israelis from the internal Palestinian
11 security over the Palestinians and to establish an
12 entity which had jurisdiction over people but not
13 over land, which is what happened more or less in
14 the Interim Agreement and in the Oslo Accords.
15 And so there has been a consistent Israeli
16 position which left the land under Israel, by and
17 large, which allowed for more settlements of Israeli
18 Jews in the territories, which made clear that
19 the responsibility over the Israelis in -- in the
20 territories was under Israel and, at the same time,
21 allowed the Palestinians to establish an authority
22 which would relieve the Israelis from the expense of
23 doing public health and education and -- and policing,
24 but all related to the Palestinians separate from the
25 responsibility over the Israelis and over the territory

OCTOBER 13, 2013 - RAJA SHEHADEH

104

1 as a whole. I think there is a consistent vision by
2 the Israelis, which you can read from '79. And -- and
3 that's not -- I mean, it's not speculation. It's fact.
4 MR. YALOWITZ: Sorry, Brenda. Could I have
5 my question back?
6 (Last full question read.)
7 Q. BY MR. YALOWITZ: So the answer is you
8 don't know?
9 A. I don't.
10 Q. Okay. Do you know how many Palestinian
11 police, all branches, there are today?
12 A. I don't.
13 Q. Do you know how many Palestinian police,
14 all branches, there were in the year 2000?
15 A. I don't.
16 Q. Do you understand that the PA is forbidden
17 to employ policemen who have been convicted of serious
18 crimes?
19 A. Where do you reference for this?
20 Q. So I guess my first question is: Is that
21 customary in the PA police force?
22 A. I wouldn't know if it's customary. But I
23 would imagine, yes, that if somebody has committed --
24 has committed a serious crime, he should not be in
25 the police force.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 Q. I mean, we would say that in New York.
2 A. Yeah.
3 Q. If a police officer has committed a serious
4 crime, he shouldn't stay on the force.
5 Is it the same in the PA?
6 A. Well, in the PA, the civil service --
7 officials of the civil service or officials of the
8 state must be of good character and not be convicted
9 of crimes.
10 Q. So -- so then there is -- there is a reference
11 in the document as well which we could look at, which
12 is in Article IV, paragraph 4.e, like "echo."
13 MR. HILL: What's the question?
14 Q. BY MR. YALOWITZ: I'm just directing the
15 witness to the paragraph. Thank you.
16 A. Uh-huh. Yeah.
17 Q. Do you see that?
18 A. Yeah.
19 Q. That's consistent with your understanding
20 of good police practice; right?
21 A. Uh-huh. Uh-huh.
22 Q. You have to say --
23 A. Yes, I do.
24 Q. Thank you.
25 Do you -- do you have an opinion on whether
OCTOBER 13, 2013 - RAJA SHEHADEH

106

1 the PA has followed that practice laid out in Item 4.e
2 in the cases that we're here today about?
3 A. Well, I would -- I don't have any inside
4 information on this. But I would comment on the
5 fact that terrorist activities would be of a different
6 interpretation to the two sides. Because terrorism
7 is committing terrorism, which is against -- but acts
8 of -- committed by the PLO in fighting the Israeli Army,
9 which are considered by Israelis terrorism, are not
10 considered by the Palestinians as terrorism. So they
11 never defined what are the understanding of the two
12 sides about this term. I mean, not any --
13 Q. So for purposes of our conversation, let's
14 limit terrorism to the Geneva Convention definition
15 we discussed before, which is acts of violence directed
16 against civilians to obtain a political purpose or
17 something along those lines.
18 Does that sound fair to you?
19 A. Against civilians. But the question is:
20 Which civilians, of course?
21 Q. You think there are civilians who live in
22 Israel?
23 A. Of course.
24 Q. And so you familiarized yourself with the
25 cases that we're here about; right?

OCTOBER 13, 2013 - RAJA SHEHADEH

1 A. Yeah.
2 Q. You know about the Sokolow family, for
3 example?
4 A. Uh-huh.
5 Q. You know about the Sokolow family?
6 A. Uh-huh.
7 Q. They're civilians; right?
8 A. Yeah.
9 Q. And Mr. Sokolow is a lawyer from New York;
10 right?
11 A. Right.
12 Q. He's not a combatant of any kind, is he?
13 A. No.
14 Q. And -- and so -- and the Goldberg family,
15 you know about them?
16 A. You don't have to go on with this.
17 I -- I'll tell you immediately I -- I do not
18 believe that killing civilians in Israel is legitimate.
19 I -- I don't think it is. So you don't have to pursue
20 this.
21 Q. So when we look at 4.e together, we see that
22 Palestinian police who have been convicted of serious
23 crimes or have been found to be actively involved in
24 terrorist activities subsequent to their recruitment
25 were to be immediately terminated, and their weapons
OCTOBER 13, 2013 - RAJA SHEHADEH

108

1 and police identification and documentation were to
2 be confiscated; right?
3 A. Right.
4 Q. And do you have an opinion as to whether
5 that has occurred in the cases that we're here today
6 to discuss?
7 A. I have no knowledge of the details whatsoever.
8 Q. Could we look at Article IX together?
9 MR. HILL: Article IX of Annex I?
10 MR. YALOWITZ: Yes. I myself am paging
11 through to find it.
12 THE WITNESS: It's on page 22:
13 "Movement Into, Within and Outside the West
14 Bank and the Gaza Strip."
15 MR. YALOWITZ: Oh, you know -- bear with me
16 one second. Well, let's just pause for a minute and
17 see if I can find it.
18 THE WITNESS: I'd like to take a break.
19 MR. HILL: Why don't we go off the record.
20 MR. YALOWITZ: It's convenient. Let's take
21 a break.
22 MR. HILL: It's been about an hour and a half.
23 (Recess from 12:39 p.m. to 1:56 p.m., after
24 which Mr. Wise was not present.)
25 Q. BY MR. YALOWITZ: Before we went off the

OCTOBER 13, 2013 - RAJA SHEHADEH

1 record and had a break, I was referring you to
2 Article IX of the Annex I. But I should have been
3 referring you to Article XI, which is why in this
4 agreement they should have adopted Arabic -- Arabic
5 numbering instead of Roman numbering.
6 So if you could look with me on Article XI.
7 A. I think somehow they think it looks more
8 impressive to have Roman numerals.
9 Q. It's impressive to those who don't actually
10 have to use the document.
11 So if you could look with me on paragraph 2.f.
12 A. Uh-huh.
13 Q. This is an obligation on the Palestinian
14 police to prevent the manufacture of weapons.
15 Do you see that?
16 A. Oh, sorry. You said 11?
17 Q. Yes. Eleven of Annex I.
18 A. Oh, Oh, I'm looking at the agreement itself.
19 Q. Aah, sorry.
20 A. That's my -- my mistake.
21 Uh-huh. Eleven and 2.f. Yeah, now I see it.
22 Q. And that -- that obliges the Palestinian
23 police to prevent the manufacture of weapons; right?
24 A. Uh-huh.
25 Q. You have to give a --

OCTOBER 13, 2013 - RAJA SHEHADEH

1 something that might be helpful for the Court and
2 for the jury to -- to understand, which is that
3 when you refer or when you read this article about
4 the manufacture of weapons and transfer of weapons
5 to persons, it's important and helpful to realize
6 two things.
7 First, the Palestinian police did not have
8 control over the borders or the entry points to the
9 occupied territories. And the second thing is they
10 didn't have control over the whole territory itself.
11 So in order to manufacture weapons, you need products
12 to be brought in from the outside. Israel controls
13 the entrance to these borders and to everything that
14 is brought in from the outside and not the Palestinian
15 police. So the Palestinian police cannot prevent people
16 from bringing in if they want to.
17 Second thing is the manufacture and transfer.
18 The transfer can take place to areas outside of the
19 jurisdiction of the Palestinian police, and the
20 Palestinian police would have no means of stopping them.
21 And the fact that the Palestinian police, given how
22 young a police force it is, did not have the means
23 to operate effectively to -- to determine where these
24 manufacturing is taking place and how. You know, you
25 need intelligence for that.

OCTOBER 13, 2013 - RAJA SHEHADEH

110

112

1 A. Yeah.
2 Q. And it obliges the Palestinian police to
3 prevent the transfer of weapons to persons who are
4 not licensed to possess them; right?
5 A. That's right.
6 Q. Now, we -- we discussed Annex IV before
7 the break a little bit. I think you were referring
8 to Annex IV --
9 A. Uh-huh.
10 Q. -- is that right?
11 A. Uh-huh.
12 Q. So I --
13 MR. HILL: Just for the record, Kent, do
14 you mean Article IV of Annex I?
15 MR. YALOWITZ: No. I mean Annex IV.
16 THE WITNESS: Legal assistance.
17 MR. HILL: Thank you.
18 Q. BY MR. YALOWITZ: That's what we -- we --
19 you were referencing it before; right?
20 A. Yes. That's right.
21 Q. Okay. So I want to ask you some questions
22 about Annex IV. So I'm going to mark a copy of it
23 and share it with you and your counsel, if I can
24 find it.
25 A. Before we move on, I would like to say

OCTOBER 13, 2013 - RAJA SHEHADEH

1 And -- and I -- I'm -- I can't say, because
2 I'm no expert on this. But all I can say is, from
3 my observation of the police force, it was in the
4 very initial stages of development. And I cannot
5 believe that they would have the ability, professional,
6 intelligence-wise, to -- to really fulfill their
7 obligation under this.
8 Q. Thank you for -- thank you for that. And
9 I want to ask you two follow-up questions.
10 The first is: I -- I -- am I correct that
11 you are not offering expert opinions on the maturity
12 or competency of the Palestinian police force?
13 A. No, I'm not. But I -- I -- I see myself as
14 somebody who has always been living here. And as these
15 things developed, I was a witness to -- to how things
16 were and -- and a recipient of the good and the bad.
17 And so I feel I can be helpful in elucidating some
18 of these matters. But I -- I'm no police expert. No.
19 Q. Now, the second thing I want to ask you is
20 that, as we've discussed before, you've mentioned some
21 limitations on the Palestinian police authority. And
22 I just want to be clear.
23 Within the territory, as it's used in Annex I,
24 with regard to Palestinian residents, the police had
25 the obligation to prevent the unauthorized manufacture

OCTOBER 13, 2013 - RAJA SHEHADEH

1 of weapons; is that correct?

2 A. Within Area A, yes, that's right.

3 Q. And, certainly, if -- if Palestinian police

4 officers were actually aware of the manufacture of

5 illegal weapons, they had an obligation to take action

6 with that regard?

7 A. Yeah. That's right.

8 Q. Now, we were going to look at Annex IV. So

9 we'll pause so Brenda can mark it as Plaintiffs' 105.

10 (Plaintiffs' Exhibit 105 marked.)

11 Q. BY MR. YALOWITZ: And so I'd like to

12 direct your attention to Article II, paragraph 2:

13 "Cooperation in Criminal Matters."

14 A. (Examining.) Uh-huh.

15 Q. Under the Interim Agreement, the Palestinian

16 police and the Israeli police have an obligation to

17 cooperate in the conduct of investigations?

18 Is that fair to say?

19 A. Sorry. Where are you reading now? Two?

20 Q. 2.a.

21 A. Aah, 2.a. Yeah. Yeah, that's right. This

22 is what the agreement says.

23 Q. And then I was also looking at 7.b, which is:

24 "Transfer of Suspects and Defendants."

25 Do you have that?

OCTOBER 13, 2013 - RAJA SHEHADEH

1 A. In principle, yes.

2 Q. And are you aware of requests by the Israeli

3 authorities to the PA to arrest individuals suspected

4 of activities that fall within the criminal jurisdiction

5 of Israel?

6 A. I'm not aware of individual cases. But I --

7 we constantly now hear of Israelis who are brought

8 back to Israel who -- who happen to be in the occupied

9 territory. And no, I don't know of cases. I mean,

10 I'm not involved.

11 Q. So one of the areas that Israel retained

12 criminal prosecutorial authority over was what's called

13 security crimes; right?

14 A. Yes.

15 Q. And security crimes are crimes committed by

16 anybody that involve -- well, let me ask you -- let

17 me ask you a different question.

18 A crime committed by anybody that involves

19 a -- an attack of violence against a civilian, that's

20 a security crime; right?

21 A. I think we can be more specific. Because

22 security crimes are those crimes which are defined

23 in the security legislation that Israel put in place.

24 And this was Military Order 378, which then got into

25 a consolidated version many years later. I think

OCTOBER 13, 2013 - RAJA SHEHADEH

114

116

1 A. Yeah.

2 Q. (Reading.)

3 "Where an individual suspected of, or

4 charged with, or convicted of, an offense that falls

5 within Israeli criminal jurisdiction, is present in

6 the territory, Israel may request the PA "to arrest

7 and transfer the individual to Israel." (As read.)

8 Right?

9 A. Right. That's right. That's what it reads.

10 Q. And that was an obligation that existed from

11 the very beginning of the Interim Agreement in 1995;

12 correct?

13 A. Correct. But I would like to say something

14 on this annex.

15 Q. If I -- if I may -- I want to give you that

16 opportunity.

17 A. Okay.

18 Q. I just want to ask you a couple questions

19 about this paragraph. And then I'll ask you to come

20 back to that thought, if I may.

21 Is that all right with you?

22 A. That's absolutely all right. Yeah.

23 Q. Okay. Thank you.

24 So the obligation to transfer -- arrest and

25 transfer, that still exists today, does it?

OCTOBER 13, 2013 - RAJA SHEHADEH

1 maybe after the events of this. But, anyway, there

2 is a consolidated version, and security crimes are

3 defined there. So it's a very specific term.

4 Q. And you understand that the -- in our case --

5 our case involves seven actions of violence against

6 civilians; right?

7 A. Uh-huh.

8 Q. And you understand that the crimes that took

9 place in our case were security crimes; right?

10 A. I can't say that for sure. Because they

11 took place, in all except one incident, in Israel

12 itself. And so the -- whether they -- what they

13 amount to in law would be determined by Israeli law.

14 And I'm not so familiar with Israeli law to say.

15 Q. Fair enough. And I appreciate that.

16 So the crimes that took place in Israel

17 against Israeli civilians, those are clearly within

18 the criminal prosecutorial jurisdiction of the Israeli

19 authorities; right?

20 A. Uh-huh. Yeah, absolutely.

21 Q. And then there was one crime, which was

22 a shooting against a 12-year-old boy and his mother

23 that took place in the West Bank.

24 And that was also a security crime; right?

25 A. Yeah. That took place near a settlement

OCTOBER 13, 2013 - RAJA SHEHADEH

1 called Givat Ze'ev, which is in the West Bank, but
2 outside of the jurisdiction of the Palestinian
3 Authority.
4 Q. It took place in Area C?
5 A. I think it's Area C. Yeah.
6 Q. Now -- so those -- all of -- all of the
7 incidents that we're talking about here or all of
8 the crimes that are at issue in our case were crimes
9 that fall within Israeli criminal jurisdiction as
10 used in Annex IV; is that right?
11 A. I would think so. Yes.
12 Q. And so -- and so individuals suspected of
13 crimes like that were subject to requests by Israel
14 to the PA to arrest and transfer those individuals
15 to Israel; right?
16 A. I would think so. Yes.
17 Q. Thank you. Now --
18 A. Now can I make my point?
19 Q. Yes, now please say --
20 A. Yeah.
21 Q. -- what you were going to say.
22 A. Yeah.
23 Q. Thank you.
24 A. I was going to say two things. The first
25 is that, from my knowledge of the military orders,

OCTOBER 13, 2013 - RAJA SHEHADEH

1 functioning.
2 My experience of a civil case involving a
3 civil matter in Israel which we were trying to enforce
4 in the West Bank, we said there is this annex. And the
5 annex says it has to -- there has -- there's a process
6 and there's a committee which is to be appointed that
7 you go to with the decision that you want to enforce
8 in -- in Israel that was taken here.
9 And I found out that it's all paper. In fact,
10 we were not able to enforce that decision in Israel.
11 So it didn't really operate. That's my experience of --
12 with this annex. And I was very disappointed at the
13 time because I thought it was more than just words on
14 paper.
15 Q. That sounds like an injustice.
16 A. Yes. Well, it's one of many injustices.
17 You're right. It's an injustice.
18 Q. I mean, if the -- the parties undertake these
19 agreements, they have an obligation to live up to them?
20 A. Yeah. But you see, the -- the problem with
21 these agreements is they're taken between two sides
22 without a third party as a guardian or enforcer or
23 arbiter. And the two sides are unequal.
24 One side is, by far, more -- stronger than
25 the other side. So if you have a grievance, if you

OCTOBER 13, 2013 - RAJA SHEHADEH

1 the -- the Annex IV mainly follows a military order
2 that was in force prior to the Oslo Accords, also
3 called legal assistance, which dealt with -- because,
4 even before the Oslo Accords, there was a judicial
5 system and court system in the West Bank and -- and
6 certain laws that applied in the West Bank.
7 And there were security legislations, of
8 course, applicable in the form of military orders.
9 And so there were cases of -- criminal cases and civil
10 cases that happened in the West Bank or in Israel and --
11 and required something like a private international law
12 relationship between two entities, although they were
13 not exactly two countries.
14 But so -- so to take into consideration
15 enforcement of judgments done here in the other
16 jurisdiction -- enforced in the other jurisdiction,
17 they made this military order to specify how that
18 process can happen. And this annex is, to a large
19 extent, based on those. It's not anything new as such.
20 However, my experience as a lawyer working
21 in the occupied territories was that, under the full
22 occupation, when the military order was in force, when
23 we tried to enforce a decision in Israel or Israel tried
24 to enforce a decision in the West Bank, whether criminal
25 or civil, the process happened better -- I mean, it was

OCTOBER 13, 2013 - RAJA SHEHADEH

1 have a point at which the Israeli side is violating
2 as clearly as possible, you have no resort really,
3 except if you want to go to the High Court. And the
4 record in the High Court hasn't been very good. And
5 you can't keep going to the High Court for every small
6 thing. And --
7 Q. I think there are many Israelis who would
8 agree with you in your criticism of the High Court --
9 A. Yeah.
10 Q. -- on both sides.
11 A. Yeah. So -- so it is -- it is an injustice.
12 But it's also a fault of the agreement that they didn't
13 have mechanisms.
14 In fact, I believe I read somewhere that,
15 in the course of the negotiations, they were thinking
16 of a arbitration process and then it was ruled out.
17 But it doesn't matter what -- what they were thinking.
18 Because the result is that there is an agreement that,
19 in many cases, as you have pointed out by pointing to
20 several articles, reads so beautifully, human rights,
21 rule of law, justice, and all of that. But these are
22 words. You can -- you can declare words very nicely,
23 and -- and they -- they mean words.
24 If you look at the constitution of Syria,
25 you will find beautiful words about the rule of law

OCTOBER 13, 2013 - RAJA SHEHADEH

1 and human rights and everything. And it goes on and
2 on for many African countries as well. But they're
3 words. So it doesn't make much difference what you
4 declare. It's what -- what makes the difference is
5 how you can enforce and whether you have the enforcement
6 mechanisms and the means for enforcement. And in many
7 instances in the -- in the situation here, you don't
8 have the means for enforcement.

9 Q. So in that regard, that reminds me -- that's
10 very helpful.

11 And it reminds me: There was another element
12 I wanted to ask you about, which is the -- the agreement
13 provides that the PA can sue and be sued; is that right?

14 A. That's right.

15 Q. And -- and has the PA brought lawsuits in
16 accordance with that power and authority?

17 A. Well, I'm a member of the commission --
18 human rights commission -- independent human rights --
19 commission for human rights, which is like an ombudsman,
20 which was established right after the agreement. And
21 the point of the commission is to act as an ombudsman
22 and to observe that the PA does not violate human rights
23 and so on.

24 And -- and they have -- and the commission
25 took cases against the PA to the courts. Now, again,

OCTOBER 13, 2013 - RAJA SHEHADEH

1 run mainly by people who have no experience in running
2 a state. They have -- their other life was lived in
3 camps and here and there and never had experience.
4 And so I and others like me were trying very hard
5 to see that things could do -- go right and that the
6 things happened properly. But there was no experience.

7 So you see these articles saying rule of law,
8 human rights, proper things. But it takes more than
9 a declaration. It takes experience. It takes hard
10 work and slow work. And -- and we kept on getting
11 disrupted because of things happening that created
12 violence and -- and disruptions, which -- so it -- it --
13 we have not had the chance to build up. So all this
14 has to be taken into consideration.

15 Q. Thank you.

16 You mentioned some work you did bringing
17 lawsuits against the PA, human rights lawsuits.

18 A. Uh-huh.

19 Q. Could you just describe those cases?

20 A. Well, there was -- I mean, you know, this
21 is in -- in later years when -- when it became -- when
22 this human rights commission became better established
23 and had the means to do that.

24 So, for example, there was a case that has
25 been -- that went on for many years to the local High

OCTOBER 13, 2013 - RAJA SHEHADEH

1 the courts are -- it's -- it's all a new entity and
2 all a new -- we've had -- we've suffered a lot from
3 the disruption.

4 I mean, my father was a lawyer from --
5 from the mandate times. And during the mandate times,
6 there was a rather respectable judiciary and proper
7 law reports and -- and effort -- real effort made.
8 And then he served as a lawyer under Jordan. And,
9 again, they kept on the system, and there was some
10 merit to -- and -- and integrity -- some, not fully --
11 to the system.

12 And then we had the occupation, and everything
13 came to a standstill, because there was a lawyer strike
14 against the occupation, which my father was against.
15 And he was one of the first people to go back to work,
16 but not many went to work. And slowly more and more
17 started going to work. But it caused a complete
18 disruption.

19 So all the judges who were part of the
20 judiciary went on strike, and they had to have new
21 judges. And so it was a slow evolution and not a
22 very good one under occupation. Although sometimes
23 the occupation tried to set things a bit and so on.
24 But it was all new and -- and rudimentary one could say.

25 And then comes the Palestinian Authority

OCTOBER 13, 2013 - RAJA SHEHADEH

1 Court, Palestinian High Court, against the dismissal
2 of teachers who were civil servants, who working for
3 the government because of a decision or bad -- you know,
4 because of the order effectively of the security forces.

5 And the law in the West Bank doesn't allow
6 for that to happen. There cannot be an interference.
7 And so they -- they were dismissed not in accordance
8 with the law in any way. And -- and so the case was
9 very strong --

10 Q. So you were --

11 A. -- on this.

12 Q. -- suing the PA to enforce the rights of --

13 A. Yeah. To --

14 Q. -- individuals?

15 A. -- to return them to their work. And after
16 many, many, many years, finally the Court dared --
17 because it's not a strong court -- dared to side in
18 favor of -- of these workers.

19 And then the question was: Would they be
20 returned? And I don't know if they ever were returned
21 to their work. So it's -- it's hard work. It's --
22 it's not easy to establish these norms in a society
23 that has had so many disruptions and didn't have the
24 experience and the tradition.

25 Q. Did -- has the PA brought claims -- or perhaps

OCTOBER 13, 2013 - RAJA SHEHADEH

1 it's the PLO.
2 There -- there -- there was a case about the
3 separation barrier; right?
4 A. Oh, yeah.
5 Q. Who -- who brought that case?
6 A. Yes. The PLO brought the case -- and I was
7 actually involved in that case -- to the International
8 Court at the Hague.
9 Q. Who was your client?
10 A. The P -- PLO.
11 Q. Aah.
12 A. Yeah. Yeah. PLO took the case. And --
13 and they had a number of lawyers who prepared a very
14 good case. And the decision was -- well, it's not
15 a decision. It's an advisory opinion. Because they
16 were asked by the U.N. to give an advisory opinion on
17 the question of the legality of the wall. And -- and
18 they gave an opinion that it was illegal.
19 Q. Was -- were there any questions raised in
20 that case -- you know, in the court, not -- I don't
21 want to hear about your private deliberations with
22 your client.
23 But in the court, were there questions
24 ventilated about the ability of the PLO to sue or
25 be sued?

OCTOBER 13, 2013 - RAJA SHEHADEH

126

1 A. Not to my knowledge.
2 Q. That was accepted?
3 A. It was accepted. Yeah.
4 Q. By -- by the way, I was wondering when did
5 you leave Al-Haq?
6 A. In '91. You know, my position with Al-Haq
7 was that we did not want an organization that was
8 factional or political. And we insisted that anybody
9 working for the organization leave politics outside. So
10 they cannot bring in their politics to the organization,
11 which was very difficult in a very factionalized society
12 and when most organizations were political and -- and
13 belonging to one faction or the other. So Al-Haq, in
14 that sense, was a model and has continued to be such.
15 So when I joined as a legal advisor, I was
16 partly aware that I was following a route that was not
17 necessarily in agreement to everybody, because I believe
18 in negotiations and the two-state solution and so on.
19 And so, in a sense, I was taking a political stance
20 on the one hand.
21 On the other hand, I was going to be away
22 for so long that I wasn't going to be able to do my
23 work for the organization. And I was looking for
24 a way out because I was very tired of working on so
25 many fronts. And so I decided that I will suspend.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 I think -- you know, I didn't -- did I come
2 back? No, I didn't come back after that.
3 Q. There was an individual named Jabarin?
4 A. Jabarin. Yeah.
5 Q. Jabarin.
6 A. He -- he was in the organization from the
7 beginning and then now is a director.
8 Q. And so he was there with you?
9 A. He -- he was working at the organization --
10 in the organization, but not as a director.
11 Q. So just coming back to Annex IV, I wanted
12 to ask you one thing about Annex IV.
13 Is it your understanding that -- that
14 nothing in Annex IV derogates from each side's
15 powers and responsibilities as detailed in Annex I?
16 MR. HILL: Objection. Vague.
17 But you can answer if you can.
18 THE WITNESS: I'm not sure what you mean.
19 I mean, what specifically would it derogate from?
20 Q. BY MR. YALOWITZ: So Annex I includes --
21 we went over Annex I with the police and the security
22 cooperation and preventing terrorism and all that.
23 Do you remember that?
24 A. Yeah, of course.
25 Q. Yeah.

OCTOBER 13, 2013 - RAJA SHEHADEH

128

1 A. Sorry.
2 Q. That's all right.
3 And then -- and then Annex IV discusses
4 legal cooperation and division of certain prosecutorial
5 discretion and other things like that; right?
6 A. Right.
7 Q. And -- and so is it your understanding
8 that nothing in Annex IV derogates from the powers
9 and responsibilities that are detailed in Annex I?
10 A. It doesn't derogate, because there are --
11 there are two different functions. One is -- is what
12 are the police functions in the areas of operation
13 of the police and the means of operating. And one
14 has to do with legal cooperation.
15 So in a -- in a normal state, the -- an
16 example would be the private international law aspect,
17 the conflict of law sometimes it's called, how to
18 manage between two different entities in terms of
19 enforcement of foreign judgment and so on. It wouldn't
20 be foreign judgments because they're not exactly two
21 countries. But it is akin to that.
22 Q. I think your answer is: No, Annex IV does
23 not derogate from Annex I. And then you explained why.
24 Do I have that right?
25 A. You could say so. But I'm hesitant to --

OCTOBER 13, 2013 - RAJA SHEHADEH

1 to give an unqualified answer because I think you're
2 comparing oranges and apples. They are two different
3 instruments. And -- and so one doesn't derogate
4 from the other. It, in a sense, explains the other
5 or provides a mechanism for enforcement of something
6 which -- which Annex I has nothing to do with
7 enforcement of judgments and so on.

8 I mean, even the name legal -- legal
9 affairs -- actually, I thought it was legal -- legal
10 assistance. I'm not sure. Maybe it is legal affairs.
11 I thought it was legal assistance.

12 Q. We could check it.

13 A. It's possibly right. I'm probably thinking
14 of the military order which was called legal assistance,
15 historic memory.

16 Q. This is what happens to us as we reach a
17 certain age.

18 A. Exactly.

19 Q. Are you offering any opinions about whether
20 the Palestinian Authority had internal control of the
21 Palestinian police?

22 A. Well, not as an expert on -- all I can say
23 is that the context in which the Palestinian Authority
24 was working and its effectiveness in controlling the
25 police and -- and -- is something I know about and I

OCTOBER 13, 2013 - RAJA SHEHADEH

1 Q. Over -- over time during the Second Intifada?

2 A. Well, even before the Second Intifada, there
3 was a degradation of the police force.

4 Q. So how was the police force degraded before
5 the Second Intifada?

6 A. Well, you know, it was -- it was a police
7 force that was a new police force that was attempting
8 to operate under the most difficult conditions. So
9 I'll give a concrete example.

10 In 1996, when everything flared up because
11 of this tunnel business, there were confrontations
12 between -- in other words, people from Ramallah walked
13 and demonstrated and came towards the checkpoint that
14 separated -- at the outskirts of Ramallah. The police
15 force tried to make a buffer zone between the Israeli
16 side and the Palestinian side. Rather than be assisted
17 in this, the Israeli police was firing at them. And --
18 and -- and many people got injured, including police.

19 And so the image of the police was tarnished
20 because not only were they acting as surrogates for
21 the Israeli police, it looked like, but they were being
22 attacked by the Israeli police. And so they lost face,
23 so to speak. And how do you operate as a police force
24 under these circumstances?

25 Q. So you're -- you're -- thank you. That

OCTOBER 13, 2013 - RAJA SHEHADEH

130

132

1 can offer some help in elucidating. But that's as far
2 as it goes.

3 I -- the mechanisms of how the Palestinian
4 police worked in terms of the Palestinian Authority
5 is not something that I looked into, and I can't claim
6 to understand very well. But I can help in giving the
7 context in which this operated.

8 Q. So you have no -- you're not offering any
9 expert opinions in that regard?

10 Do I have that right?

11 A. Well, I don't know what expert opinion is --
12 but it's an opinion on -- on the -- on the context.
13 That's what I'm able to say.

14 Q. And so --

15 A. And the conditions.

16 Q. So leaving aside -- what I'm interested in
17 asking you about -- I want to try and be very focused
18 about it -- is you've mentioned the ability of the
19 police force to operate with regard to civilians.
20 And you mentioned a concern that you observed as a
21 layperson about the degradation of that police force.

22 Do I have that right?

23 A. The degradation of the police force?

24 Q. Yes.

25 A. In -- in general?

OCTOBER 13, 2013 - RAJA SHEHADEH

1 example is helpful.

2 So you -- you've offered some opinions and
3 observations about the relations between the police
4 force on the one hand and the civil population on the
5 other; right?

6 A. Yes.

7 Q. And then I'd like to ask you some questions
8 about matters -- internal matters within the police
9 force.

10 Do you have any knowledge, from your own
11 personal observations, about matters of internal police
12 procedures and affairs?

13 A. No, I don't. All I could say is: Looking
14 from outside at the police, at the individual members
15 of the police force, it was pathetic. They -- they --
16 they looked totally lacking in confidence, not -- not
17 able to stop even traffic offenses. They -- they --
18 they were not empowered. And that's because of many
19 reasons.

20 But the main reason, I think, is that if
21 you had an agreement between the two conflicting sides,
22 two warring sides, Israel and the PLO, and that
23 agreement was intended to end the conflict and the
24 police force and the security people were convinced
25 that they are going to be helpful in enforcing that

OCTOBER 13, 2013 - RAJA SHEHADEH

1 agreement, because that's in the interest of the
2 Palestinian people, as we all believed, because
3 it was going to bring an end to our miseries and
4 occupation, and all that came out of that -- and
5 then instead of being in that situation, the police
6 force, like all of us, saw that the Israeli side
7 was not really pursuing its intentions of ending
8 the conflict.

9 It was continuing with the same things
10 that were the cause of all the problems, mainly
11 the settlements and encroaching more on the land
12 and taking more land and considering Area C, which
13 is 61 percent of the whole -- of the West Bank, as
14 theirs by right and able to settle any -- anywhere
15 they like, including continuing with practices that
16 were so provocative such as house demolitions.

17 So the Palestinian side was subjected to
18 all these horrors of the occupation, which we had
19 suffered from before and which we were convinced by
20 the PLO and/or the media that all of this would come
21 to an end because now they have decided on an agreement
22 and on a way of resolving the dispute. And the security
23 forces were there to enforce that very good agreement.
24 It turned out not to be so. It wasn't a very good
25 agreement. It wasn't as presented.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 THE WITNESS: I -- I -- I don't know the --
2 the mechanisms -- the internal mechanisms of how the
3 police -- all I know is from the reading and observing.

4 Q. BY MR. YALOWITZ: And based on reading and
5 observing, do you think that the police department
6 leadership exercised supervision over police
7 department personnel?

8 A. Well, I'll give you an example of Jabril
9 Rajoub, who -- who was the head of the preventative
10 security. And -- and he was very strong and brought
11 some order to the preventative security and built
12 a huge building and structures for the preventative
13 security and -- and did arrest Palestinians who were
14 Hamas or -- or otherwise who had committed crimes
15 against the Israelis.

16 And in the invasion of 2002, when I was
17 there -- I think it was April -- we heard a huge
18 explosion. And his headquarters were bombed by --
19 by the Israelis. And so after that, I don't know how
20 he -- or whether he was able to restructure. So all
21 the work that he had done for all these years and --
22 and got somewhere, much more than others, I think --
23 was destroyed. So -- so it wasn't -- it wasn't a good
24 signal to Palestinian enforcement mechanisms.

25 Q. Do you know -- how do you say his name?

OCTOBER 13, 2013 - RAJA SHEHADEH

134

136

1 And so the security forces and police, who
2 are part of the society, were in a -- in a difficult
3 situation. I mean, I -- I would find it -- and --
4 and so many people in the police force who -- who
5 had joined because they thought they would be doing
6 that kind of job of enforcing the law that was in the
7 interest of the Palestinian people and in the interest
8 of peace were getting so much evidence in -- not in
9 theoretical, but in concrete terms, seeing some of
10 their fellow Palestinians being shot dead and wounded,
11 houses being demolished, more land being taken, all
12 the horrors of the occupation continuing. And so they
13 were in a difficult situation.

14 MR. YALOWITZ: I'm sorry. Could I have the
15 question back?

16 (Last question read.)

17 MR. YALOWITZ: Thank you.

18 Q. BY MR. YALOWITZ: So do you have any
19 knowledge about matters of internal police procedure
20 and internal police affairs?

21 MR. HILL: Objection. Asked and answered.
22 Go ahead.

23 MR. YALOWITZ: I agree with the "asked" part.

24 MR. HILL: Well, I think he responded to the
25 question. But if you want him to repeat it, he can.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 Jabril?

2 A. Jabril Rajoub.

3 Q. Jabril --

4 A. Rajoub.

5 Q. -- Rajoub. Do you know him?

6 A. Yeah, I mean, I know him. I'm not -- I
7 don't know him well, but I -- I've met him.

8 Q. And what is his job today?

9 A. Football association. He's -- he's very
10 active in -- in sports and in developing a football
11 team for Palestine. And he seems to be doing well,
12 actually. Maybe he's happier.

13 Q. Do you know when he left the preventative
14 security?

15 A. I don't know for -- the details. But I
16 remember very well his interviews during the invasion
17 and how stressed he was and how he -- he said -- he --
18 he had arrested some people and he was willing to give
19 them up to Israel in order -- negotiating. And then
20 negotiations -- rather than continuing negotiations,
21 Israel just bombed the place up.

22 Q. Did you read, in the expert reports submitted
23 by the plaintiffs, that -- that he was involved with
24 the release of Ahmed Barghouti?

25 A. He was involved with the release? I must

OCTOBER 13, 2013 - RAJA SHEHADEH

1 have read, but I -- I don't recall now. Give me the
2 details.

3 Q. I'm sorry. I -- I misspoke. I said Ahmed
4 Barghouti. I meant Abdullah Barghouti.

5 A. I don't remember. There were so many names
6 and people.

7 Q. Are you familiar with an individual named
8 Abdullah Barghouti?

9 A. No, I'm not.

10 Q. "Barghouti" is a -- is that a fairly common
11 name?

12 A. It's a very common name. And not necessarily
13 all Barghoutis are related. So there are Barghoutis
14 in various places totally unrelated to each other.
15 But it is a common name.

16 But I must also say that the preventative
17 security was not the only security police building
18 that was destroyed. There were two more in Ramallah
19 that were destroyed, which one was near my school, a
20 French school, and it's an Ottoman building, actually,
21 which was a great loss to have destroyed there. And
22 it -- it was reduced to rubble completely. And the
23 other was in the quarter called Tireh in Ramallah.
24 Again, that was reduced to rubble.

25 Q. Those were police buildings?

OCTOBER 13, 2013 - RAJA SHEHADEH

1 accommodation. But they would have left on their
2 own maybe.

3 Q. Other than what you've described, do
4 you have any information about the internal police
5 procedures?

6 A. No, I don't. I don't. I can say that the
7 police procedure was a very long time before it began
8 to get off the ground. And I think one of the main
9 manifestations of this is the traffic.

10 Q. Would you agree with me that a professional
11 police force has an obligation to have appropriate
12 procedures for the discipline of police officers?

13 A. Absolutely. But then it has to be a
14 professional police force. And it takes effort
15 and time and experience and money to develop a
16 professional police force. And -- and there wasn't
17 any of these ingredients for a long time.

18 Q. How do you know?

19 A. Because I saw the police and -- and saw the
20 process.

21 Q. You saw the traffic police and so forth?

22 A. Well -- no, no. You know, I -- I know from
23 personal experience that after -- during Israeli time,
24 there was only Israeli police. There was no, I mean,
25 there were a few people that worked with Israeli police,

OCTOBER 13, 2013 - RAJA SHEHADEH

138

140

1 A. Police buildings.

2 And the second one was built after the first
3 one was destroyed in order to house the police. So --
4 so the police were on the -- on the run to a large
5 extent.

6 Q. In 2002?

7 A. No. Before even.

8 Q. The police were on the run?

9 A. I mean, you know, they had -- they -- they --

10 Q. When did you think -- I'm sorry.

11 A. They had no place to stay.

12 In -- in 2002, before -- in -- when was it? --
13 March, I think -- two policemen -- and I mention this
14 in one of my books -- came to -- to our office and said:
15 We heard that you have a relationship to a place where
16 we can rent somewhere. Can we rent? You know, they --
17 they had no place to stay. So they were -- they were
18 destitute. It was pathetic.

19 Q. So before 2002, did you observe police on
20 the run?

21 A. On the run in the sense that they -- they
22 had no place to stay. They had no accommodation
23 because their accommodation was destroyed. And --
24 and they were -- they were -- I think it's a fault
25 also that they should have been given alternative

OCTOBER 13, 2013 - RAJA SHEHADEH

1 but they also -- many of them had left.

2 So when the Palestinian Authority was
3 established, they had to start from zero, from scratch.
4 And -- and you could see that they -- they were not
5 getting it together. It took a while. And then the
6 traffic was completely unmanaged, completely unmanaged.
7 If something happened, a theft or a burglary, you --
8 you couldn't resort to anybody because there was nobody
9 to resort to. So that's from personal experience.

10 Q. Did you have personal experience with the --
11 with the coastal police?

12 A. How could I have? There's no coastline in --
13 I mean, the West Bank is landlocked.

14 Q. Did you have personal experience with the
15 presidential guard?

16 A. No. No.

17 Q. Did you have personal experience with the
18 preventative security service?

19 A. No.

20 Q. Did you have -- well, that's enough. We
21 can ask more later, but I think we understand each
22 other.

23 We had talked earlier about Human Rights
24 Watch. So I -- I want to -- I want to show you a
25 report prepared by Human Rights Watch and ask your

OCTOBER 13, 2013 - RAJA SHEHADEH

1 opinions about some of the matters in it. So we'll --
2 it's been marked, actually. It's -- mine doesn't
3 have it, but -- this is a copy without the sticker
4 page, Defendants' 185. So why don't we mark it as
5 Plaintiffs' 106.
6 (Plaintiffs' Exhibit 106 marked.)
7 Q. BY MR. YALOWITZ: Why don't you take a
8 moment and look at it and let me know if it's a
9 document you've read before.
10 A. (Examining.) I don't believe I read this one.
11 No. I might have known that they did the report because
12 they were around investigating. But I -- no, I'm not
13 familiar with it.
14 Q. So when you reached your conclusions and
15 rendered your report, the Human Rights Watch report
16 that we've just marked is not something you had
17 considered?
18 Is that fair to say?
19 A. Yeah. That's fair to say. I mean, there
20 are so many reports that nobody can be familiar with
21 all of them.
22 Q. Sure.
23 A. There are hundreds. It's the most reported
24 region in the world, I believe, on human rights, not
25 that it has brought much good.

OCTOBER 13, 2013 - RAJA SHEHADEH

142

1 Q. We're sometimes like boats against the
2 current.
3 This is published in October of 2002 --
4 A. Uh-huh.
5 Q. -- is that right?
6 A. Yeah. This is -- I can read it. Yes.
7 Q. If you look on the second page, we see --
8 A. Yeah.
9 Q. -- October 2002.
10 So I wanted to ask you to turn to page 49
11 with me.
12 A. Whoever did the collation of this document
13 did a very bad job because some pages are turned.
14 Q. I apologize for that.
15 A. It's okay.
16 Q. It was a bit last minute.
17 A. Yes. I have 49 now -- 149; right?
18 Q. No, I'm sorry. Forty-nine.
19 A. Oh. Uh-huh.
20 Q. Do you have page 49?
21 A. I do.
22 Q. This is Human Rights Watch talking about
23 the legal standards applicable to times of armed
24 conflict.
25 Do you see that?

OCTOBER 13, 2013 - RAJA SHEHADEH

1 A. Yes.
2 Q. And their opinion is:
3 "In all situations of armed conflict, the
4 deliberate killing of civilians is a war crime."
5 Do you agree with Human Rights Watch on that?
6 A. There has been a lot of discussion of this
7 point, I remember. And Human Rights Watch went all --
8 all the way out in saying that it is a war crime.
9 I must say this, that I am horrified by
10 killings of civilians, unarmed civilians in Israel
11 and -- and consider it a crime. Now, whether it
12 constitutes a war crime, which is a very specific
13 extra level of -- or not, is not something that I
14 have looked into enough to form an opinion on. But
15 it doesn't matter, the end result is, I think, the
16 commission of crimes against civilians in Israel
17 are crimes and horrific crimes -- crimes. That's --
18 that's my position. I -- I'm not sympathetic to that,
19 and I -- I was never sympathetic to it.
20 Q. Now, I think you and I agreed earlier that,
21 under international humanitarian law, failure by one
22 party to a conflict to respect the laws of war does
23 not relieve the other of its obligation to respect
24 those laws?
25 A. Yeah, I agree. I agree.

OCTOBER 13, 2013 - RAJA SHEHADEH

144

1 Q. And -- and then I asked you about the Geneva
2 Convention as a follow-up to that. And I'm just going
3 to show you, on page 53 of the Human Rights Watch
4 report, what Human Rights Watch says about the Geneva
5 Convention in this regard, with regard to reprisals.
6 So let me know when you've arrived at 53.
7 A. Yes. You know, I -- I'll relieve you of this.
8 When I was with Al-Haq in the -- towards
9 the end of the '80s -- 1980s, there were killings by
10 Palestinians of people accused of being collaborators
11 with Israel. And we had lengthy discussions at Al-Haq
12 whether this is allowed or not -- or to be condemned
13 by us, a human rights Palestinian organization or not.
14 And at the end of the discussion, we decided
15 that, yes, we would condemn it. And -- and I think
16 it's very complicated business. Because when it is
17 a state and the state commits violations, then it's
18 a state. And -- and the state has organized systems
19 and powers and authorities. And it's much easier to
20 condemn a state.
21 When it's armed conflict and the other --
22 the case now, for example, in Syria. Now they're
23 saying that both the Syrian government, which is
24 obviously creating havoc and -- and committing crimes,
25 but also the resistance to the civilian -- to the

OCTOBER 13, 2013 - RAJA SHEHADEH

1 government is also committing -- committing crimes.
 2 Now, it's easier to condemn the government
 3 because you know what you're dealing with. But when
 4 you're dealing with armed conflict and armed civilians,
 5 who are resisting an authority, it's important to hold
 6 them to account. I think it's important to hold them
 7 to account, although it's a complicated question how
 8 to hold them to account, who to hold to account, how
 9 to define who -- who has done wrong. They're not an
 10 army. So it's a much more complicated question.
 11 But I agree that, if we are to uphold
 12 principles and human rights principles, we have to
 13 be fair and -- and not encourage any side to commit.
 14 Because if -- if you -- if you do, then when that
 15 side takes over, they will be -- be guilty of crimes
 16 as well. And -- and that would not help the cause.
 17 Q. And -- and so -- so with regard to reprisals,
 18 could you just look with me on page 53?
 19 A. Uh-huh.
 20 Q. Human Rights Watch says -- and I'm quoting:
 21 "The Geneva Conventions specifically prohibit
 22 reprisals against civilians."
 23 A. Uh-huh.
 24 Q. Do you see that?
 25 A. Yes, I do.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 doing were contributing to the brutalization of the
 2 population that led to -- it's not to explain because
 3 one should never explain away these things. But it's
 4 important to keep in mind to understand better how
 5 things got to that point. And I must say that there
 6 were no similar happenings throughout the occupation
 7 and until the end of the -- or -- or until the '90s.
 8 Q. I'm sorry. Say -- say that again.
 9 There were no similar what?
 10 A. Suicide --
 11 Q. Happenings?
 12 A. Suicide bombings.
 13 I remember there were suicide bombings in
 14 south Lebanon. And I asked somebody -- we were talking,
 15 and he was sort of more politically involved than I was.
 16 I said: Why isn't there similar things happening in --
 17 in the occupied territories as in south Lebanon? I just
 18 was -- was curious to get his opinion.
 19 And he said: The Palestinians love life
 20 too much to kill themselves in the process. And --
 21 and I believe it was correct, because we didn't have
 22 any such suicide bombings until the '90s. And I think
 23 it was partly the brutalization and the emergence of
 24 less nationalism and more fundamentalism. But it was --
 25 Q. I'm familiar with this story.

OCTOBER 13, 2013 - RAJA SHEHADEH

146

1 Q. And you agree with that?
 2 A. Yes, I do. I do. I do.
 3 I -- I want to say something about the Human
 4 Rights Watch. I want to say that Human Rights Watch
 5 is fair and has said things that are condemnatory of
 6 Israel and condemnatory of the Palestinians. And we
 7 have to take all of what they said into consideration.
 8 I quoted, in my report on page 37, a report
 9 that they did called "Israel's Closure of the West
 10 Bank and the Gaza Strip." And it's one of many reports.
 11 But in this report, they said:
 12 "The Israeli government has appeared to fall
 13 back on the policy of closure in order to prove to an
 14 outraged public that it is doing something in response
 15 to terrorism, regardless of that policy's impact on
 16 the welfare of the population."
 17 And so Human Rights Watch was aware that
 18 Israel's policies are inciting the population. And --
 19 and so that is an important background and context to
 20 take into consideration. You know, we didn't arrive
 21 at the horrible suicide bombings that happened later
 22 in the eighty -- in -- in the end of 1990 and beginning
 23 of 2000 out of the blue. It was a process and a gradual
 24 process.
 25 And -- and these policies that Israel was

OCTOBER 13, 2013 - RAJA SHEHADEH

148

1 A. Well, there was more --
 2 Q. Continue. I didn't mean to interrupt you.
 3 A. But there was more brutalization. I remember,
 4 from Al-Haq days, I got an affidavit, statement under
 5 oath, from Gaza -- the Gaza City actually. No, it
 6 was in a refugee camp near Gaza City. And I remember
 7 this -- the -- the details.
 8 The details were that the Israeli Army had
 9 broken into the house of -- of some Palestinian and
 10 proceeded to beat the father up before the children.
 11 And -- and in the report, they had something about
 12 the reaction of the children and so on.
 13 And the question on my mind was -- and this
 14 is late '80s. The question on my mind was: Are the
 15 Israeli policymakers and soldiers and Army not aware of
 16 what is going to be the outcome to this new generation
 17 that will grow up off these policies of brutalization,
 18 when you see your father being beaten before your eyes
 19 and a child looks up to the father and doesn't want
 20 to see the father humiliated before him? Are they
 21 not aware of what they're doing to the population?
 22 I remember so clearly thinking that. And --
 23 and maybe even I wrote an article because I used
 24 to write to the Israeli papers and -- and ask these
 25 questions and -- and tried to sort of alert the Israeli

OCTOBER 13, 2013 - RAJA SHEHADEH

1 public to this. And I didn't have to wonder very long.
2 Because the kind of brutal behavior that was manifested
3 later on has its roots in these times.
4 It's -- it's a very wrong policy. You know,
5 the Israelis were in full control of the Gaza Strip and
6 the West Bank. And they could have gone one way or the
7 another way. Instead they went the wrong way, which led
8 to terrible consequences and suffering for everybody,
9 for all of us. And it continues.
10 MR. YALOWITZ: What was my question?
11 (Record read as follows:
12 "QUESTION: Human Rights Watch says -- and
13 I'm quoting: 'The Geneva Conventions specifically
14 prohibit reprisals against civilians.'
15 "ANSWER: Uh-huh.
16 "QUESTION: Do you see that?
17 "ANSWER: Yes, I do.
18 "QUESTION: And you agree with that?
19 "ANSWER: Yes, I do. I do. I do.")
20 Q. BY MR. YALOWITZ: Do you agree with me
21 that, under international human rights law, anybody
22 who is not a combatant is considered a civilian?
23 A. Yes.
24 Q. And I want to direct you to page 55 of the
25 Human Rights Watch report.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 MR. HILL: Objection. Vague.
2 But go ahead.
3 THE WITNESS: Well, I'm -- I think -- I've
4 never looked into the question. But I would think --
5 I would say that it's not the place for the settlers
6 to be in the occupied territories on land that has
7 been taken from the Palestinians. It is not for them
8 to be there.
9 Now, whether they are civilians or not --
10 they are certainly not combatants. But they are serving
11 an illegal objective.
12 Q. BY MR. YALOWITZ: So then Human Rights
13 Watch explains their opinion. They say:
14 "The illegal status of settlements under
15 international humanitarian law does not negate the
16 rights of the civilians living there. The fact that
17 a person lives in a settlement, whether legal or not,
18 does not make him or her a legitimate military target."
19 Do you see that?
20 A. Yeah.
21 Q. Do you agree with it?
22 A. Well, I think the right to life is a --
23 a sacred right to life. And the fact that you
24 live in a settlement, you don't forfeit that right
25 to life. But I -- I still think that settlers should

OCTOBER 13, 2013 - RAJA SHEHADEH

150

1 A. Yeah.
2 Q. Fifty-five?
3 A. Yeah.
4 Q. So we're -- we're in the "Legal Standards"
5 section. And I think -- do I have it right that Human
6 Rights Watch has -- well, I'm -- I'm not sure. So I'm
7 not going to ask. I'm not sure. I'll withdraw the
8 question.
9 Do you have page 55 before you?
10 A. Yeah, I do.
11 Q. And they're quoting somebody named Hussein
12 Al-Sheikh --
13 A. Al-Sheikh. Yes.
14 Q. -- Al-Sheikh, a Fatah official, who says:
15 "We sent a message to Al-Aqsa. Don't touch
16 Israeli civilians. Never. Focus on the army and
17 settlers. We don't consider settlers to be civilians."
18 Do you see that quotation?
19 A. Uh-huh.
20 Q. And then Human Rights Watch says:
21 "These assertions are inconsistent with
22 international humanitarian law."
23 Do you see that?
24 A. Yeah.
25 Q. Do you agree with that?

OCTOBER 13, 2013 - RAJA SHEHADEH

152

1 take responsibility to the fact that they have placed
2 themselves in areas which they are inciting the local
3 population.
4 Q. So I just want to make sure I understand
5 your opinion because I want to be very, very clear
6 about this.
7 Your opinion is that the settlements in
8 the West Bank violate international law; correct?
9 A. Absolutely, yeah.
10 Q. And your opinion is that acts of terror
11 against civilians violates international law; correct?
12 A. Yes. In other words, I don't believe that
13 the illegal presence of the settlers should be dealt
14 with through violence. Because violence is not going
15 to get anybody anywhere. And -- and the amount of
16 suffering that violence causes is terrible.
17 I think the illegal presence of the settlers
18 in the occupied territories should be dealt with through
19 negotiations.
20 Q. And -- and just so I'm clear, you're not just
21 offering that as sort of a political prescription.
22 You're opining on international law; right?
23 A. Yeah.
24 Q. Now, do you think that it violates
25 international law for a country to apply its law

OCTOBER 13, 2013 - RAJA SHEHADEH

1 extraterritorially to its own citizens?

2 A. It depends. I mean, there are cases all over

3 the world where a country applies extraterritoriality

4 to its citizens outside of its territory. Tax laws

5 is something that I would say. So -- so yes, there

6 are cases.

7 But in this case, it's a different matter.

8 In this case, Israel has decided against -- except

9 for East Jerusalem -- against annexing the occupied

10 territories formally and went about annexing them,

11 to all intents and purposes, using all kinds of legal

12 ploys, one -- one of which is to apply its own law

13 extraterritorially. And there was a very specific

14 process by which it did this. It connected legislation,

15 it applied certain laws extraterritorially, and military

16 orders.

17 So, for example, the regional councils

18 and the local councils, which are how the settlements

19 are administered, are administered under a military

20 order which applied Israeli local council and regional

21 council law to these settlements. So the Israeli law

22 came to be applied outside of Israel through a military

23 order, which applies only to the settlers and not to

24 the Palestinians. And -- and so the settlements are,

25 in fact, under Israeli law but not in name, which was

OCTOBER 13, 2013 - RAJA SHEHADEH

1 has, to some extent, treated them as local inhabitants.

2 Did -- did I make that clear?

3 Q. BY MR. YALOWITZ: Yes. That was helpful to

4 understand your opinion. Thank you.

5 Now, I want to direct your attention to page 1

6 of the Human Rights Watch report. And -- and just so

7 we have the report in context, October 2002 was sort

8 of two years into the Second Intifada period; is that

9 right?

10 A. That's right.

11 Q. And there were still another couple of years

12 to go, although they didn't know it in 2002; right?

13 A. That's right.

14 Q. And I just want to read -- I just want you

15 to read the introductory paragraph to yourself and

16 let me know when you've finished.

17 MR. HILL: You want him to read the first

18 paragraph on page 1?

19 MR. YALOWITZ: Yes. Thank you.

20 MR. HILL: Okay.

21 THE WITNESS: (Examining.) Yes.

22 Q. BY MR. YALOWITZ: Is there anything in that

23 paragraph you disagree with?

24 A. No, I don't disagree with it. No.

25 Q. I'd like to direct your attention to page 2,

OCTOBER 13, 2013 - RAJA SHEHADEH

154

156

1 a very clever way that Israel devised to -- to apply

2 its law extraterritorially.

3 But you see, in this case, the objective

4 is illegal. The objective of establishing settlements

5 outside of its territory is illegal under international

6 law.

7 Q. Just so I understand your opinion on this,

8 you're not objecting to the application of law

9 extraterritorially per se as being in violation

10 of international law.

11 You're saying the objective by -- the

12 objective served by the application of international --

13 of Israeli law extraterritorially in this case is what

14 you're objecting to?

15 A. No. I'm objecting on both accounts.

16 Because -- because the Hague regulations make

17 it clear what laws -- first of all, that all the laws

18 should stay and what laws may be amended by legislation.

19 And this very specifically refers to the security and

20 public order of the local inhabitants. And the settlers

21 are not, under international law, local inhabitants,

22 although the Israeli law --

23 (Court reporter clarification.)

24 THE WITNESS: Are not local inhabitants under

25 the Hague regulations, although the -- the High Court

OCTOBER 13, 2013 - RAJA SHEHADEH

1 and I'd like to focus on the third paragraph from the

2 top with you. It's the one that begins:

3 "The Palestinian Authority is not a state

4 and is therefore not a party to the major international

5 humanitarian law treaties, but it has on several

6 occasions signaled its willingness to abide by those

7 standards."

8 Do you see that paragraph?

9 A. Yeah.

10 Q. That's true? You agree with that?

11 A. Yeah. Absolutely.

12 Q. We talked about that earlier?

13 A. Yeah.

14 Q. And -- and it goes on -- Human Rights Watch

15 goes on to say:

16 "International humanitarian law, through

17 the well-established doctrine of command responsibility,

18 requires that those who occupy positions of authority

19 cannot escape accountability for war crimes or other

20 grave abuses committed by persons under their control

21 if they ordered their subordinates to commit such

22 crimes, failed to take reasonable preventive action,

23 or failed to punish the perpetrators."

24 Do you agree that that is a correct statement

25 of international humanitarian law?

OCTOBER 13, 2013 - RAJA SHEHADEH

1 A. I think it might be a correct statement.
2 But I don't necessarily agree that Human
3 Rights Watch is being fair in this case by saying
4 that -- by putting all -- all the blame and all the
5 responsibility on the Palestinian Authority, treating
6 it as a fully fledged entity that is capable, under
7 the conditions in which it self-existed and operated
8 and all the restrictions, that it -- it could have but
9 didn't prevent or hold accountable or -- or ordered or
10 failed to -- to take reasonable preventative action.
11 I -- I'm not in agreement that they were able
12 to do all these things because of the conditions under
13 which they operated.
14 Q. Well, let -- let me -- let me try to be clear
15 in my question. I'm not asking -- I take it you haven't
16 read the entire report yet?
17 A. No.
18 Q. But I suspect you will. I mean, not with me
19 right now today. But we'll look at some parts of it.
20 I'm just asking you about the statement of
21 international humanitarian law on page 2, which is --
22 which is a statement by Human Rights Watch of its
23 understanding of international law.
24 And I'm asking you, as a person knowledgeable
25 about international humanitarian law, do you agree with

OCTOBER 13, 2013 - RAJA SHEHADEH

1 of law and then there are facts which the -- to which
2 the rules of law apply; right?
3 A. Right.
4 Q. And in -- in the sentence we're focused on,
5 Human Rights Watch is describing a rule of law; right?
6 A. Right.
7 Q. And they -- the report then goes on to apply
8 that rule of law to the facts as Human Rights Watch
9 saw it. That's what we lawyers do; right?
10 A. Right.
11 Q. But in this sentence that we've been
12 discussing, they're describing a rule of law; correct?
13 A. Correct.
14 Q. And so I'm asking -- leave aside the facts.
15 We're going to come to the facts.
16 I'm asking, as an expert on international
17 humanitarian law, do you agree with Human Rights Watch
18 in their statement about international humanitarian
19 law through the well-established doctrine of command
20 responsibility? And then they go on from there.
21 A. I do. I do.
22 Q. Okay. Thank you. That's very helpful.
23 Now let's talk about facts. When -- when
24 you -- are you familiar with an organization called
25 Hamas?

OCTOBER 13, 2013 - RAJA SHEHADEH

158

160

1 the Human Rights Watch statement?
2 A. You know, the statement cannot be divorced
3 from the assertion made in the beginning -- in the
4 clause in the beginning of this second sentence,
5 which says:
6 "International humanitarian law, through
7 the well-established doctrine of command responsibility,
8 requires" --
9 So if there is a well-established doctrine
10 of command responsibility, which I am doubtful that
11 there was in the case of the PA, the Palestinian
12 Authority, then I cannot agree that there is that
13 obligation. Because that obligation is related to
14 and subordinate to the command responsibility. And --
15 and I'm not sure there was one, a clear one or a
16 well-defined one or a working one.
17 Q. So you're an attorney; right?
18 A. Right.
19 Q. Do I have that right?
20 A. Yeah.
21 Q. You're trained in the common law system --
22 A. That's right.
23 Q. -- right?
24 A. Sorry.
25 Q. And so you understand that there are rules

OCTOBER 13, 2013 - RAJA SHEHADEH

1 A. Yes.
2 Q. What is it?
3 A. It's the Islamic -- what does it stand for?
4 It's an acronym for --
5 (Comments in Arabic by the witness and
6 Mr. Spitzen.)
7 THE WITNESS: The -- the Islamic resistance
8 movement.
9 MR. HILL: The record should reflect that
10 Mr. Spitzen suggested the answer to the witness, just
11 so it's clear. I'm not sure if the court reporter got
12 it.
13 MR. YALOWITZ: Right. The record can reflect
14 that Mr. Spitzen and the witness exchanged words in the
15 Arabic language that I think they were helpful to the
16 witness.
17 THE WITNESS: It's the acronym of the Hamas.
18 And -- and yes.
19 Q. BY MR. YALOWITZ: And -- and are -- are
20 they -- are they known to endorse violence to
21 achieve political objectives?
22 A. I'm no expert on -- on Hamas. But I can
23 tell you that, in my experience and recollection,
24 Hamas began long before the -- not long, but before
25 the Palestinian Authority ever came into existence.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 And they were beginning to come into the picture at
2 the end of the 1980s. And they were -- because until
3 then the only political organization was the PLO. And
4 so Hamas was beginning to come into the picture, and
5 they were more extreme than the PLO.

6 And the surprising thing was that Israel
7 was not declaring them a forbidden organization,
8 an illegal organization. And I wondered about this.
9 And the only political explanation I can find is that
10 it was convenient to have a rival to the PLO. And,
11 in fact, my understanding of why the PLO was so into
12 making an agreement with Israel and why they were
13 speeding it up is because they were worried that they
14 would be challenged by other organizations such as
15 Hamas. So there is a political aspect to the whole
16 thing.

17 And -- and certainly Hamas, from the
18 beginning, took a stance against the Oslo Accords
19 and thought it was a wrong and mistaken thing on the
20 part of the PLO. And they were very active in opposing
21 it. And -- and this is part of the political and --
22 and the reality of the -- the situation, just as
23 in Israel there were groups who were opposed to it,
24 including the government of Netanyahu and the Likud,
25 who voted against the Oslo Accords and took power

OCTOBER 13, 2013 - RAJA SHEHADEH

1 A. Uh-huh.

2 Q. So could you look with me at the beginning
3 of the second full paragraph. Human Rights Watch is
4 saying:

5 "The perpetrator organizations have also
6 sought to use the bombings to build publicity for
7 their cause, to drum up new recruits for suicide
8 missions, and to sow anxiety and terror among Israelis."

9 Do you see that?

10 A. Yeah.

11 Q. Do you have any basis to disagree with Human
12 Rights Watch on that?

13 MR. HILL: Objection. Lack of foundation.

14 You can respond.

15 THE WITNESS: I -- I don't -- I don't know
16 the report, and I don't know the basis for this. And
17 I -- I can't have an opinion on the report.

18 You know, I want to say that Human Rights
19 Watch has done many reports. And -- and as I know, from
20 working in human rights, even human rights organizations
21 are not free from pressures and from the context and
22 the times. So the time that this report was made was
23 a very difficult and sad time with all these bombings
24 and happenings on all sides. And so I think this might
25 be reflected in the report.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 after Rabin was killed and did everything they could
2 to destroy the Oslo Accords and are still doing it.

3 Q. So would you agree with me that Hamas is
4 an organization that has claimed responsibility for
5 acts of violence against civilians in order to achieve
6 political ends?

7 MR. HILL: Objection. Lack of foundation.

8 THE WITNESS: I mean, I -- all I know is from
9 the newspaper declarations. And -- and sometimes Hamas
10 declared it was responsible for acts of violence over
11 the years.

12 MR. HILL: Kent, we've been going about an
13 hour and a half. Can we get a break? Is it okay?

14 MR. YALOWITZ: Sure. You ready for a break?

15 THE WITNESS: Yeah.

16 MR. YALOWITZ: Well, your counsel wants a
17 break. So let's take a break.

18 MR. HILL: Thank you.

19 (Recess from 3:21 p.m. to 3:38 p.m.)

20 Q. BY MR. YALOWITZ: So Human Rights Watch --
21 Human Rights Watch calls Hamas a -- a perpetrator
22 organization in its report because they say that
23 Hamas perpetrated suicide bombings. So I want to
24 direct your attention to page 16.

25 Are you there?

OCTOBER 13, 2013 - RAJA SHEHADEH

1 After the Gaza -- invasion of Gaza -- when
2 was it? -- in 2008, Human Rights Watch did a very strong
3 report as well, which also accused Israel of war crimes
4 and -- because the situation was so strong and harsh and
5 so on. So I think human rights organizations also are
6 affected by these. And -- and this report is obviously
7 done in the heat of great tragedy and trouble and so on.
8 And so it seems to be reflected in the report. But I
9 have no opinion on the report. I -- I'm not familiar
10 with it.

11 Q. BY MR. YALOWITZ: You lived in the West
12 Bank during the period?

13 A. Absolutely.

14 Q. And you're aware that -- that the perpetrators
15 of suicide bombings often filmed videos of themselves
16 before they committed their crimes?

17 MR. HILL: Objection. Lack of foundation.

18 Q. BY MR. YALOWITZ: Right?

19 A. Well, I've seen television clips of -- of
20 things of that sort.

21 Q. And you're aware that -- that the media in the
22 West Bank wrote articles glorifying those individuals;
23 right?

24 MR. HILL: Objection. Lack of foundation.

25 THE WITNESS: You know, I -- the experience

OCTOBER 13, 2013 - RAJA SHEHADEH

1 of living in the occupied territories during that time
2 was one of the Israeli Army invading Ramallah and other
3 Palestinian cities and putting us under lengthy curfew.

4 And my mother was living in the center
5 of town, and she had five Israeli tanks around her
6 house, shooting and creating havoc. And so there
7 was a period of four or five months of absolute terror
8 that the population was subjected to. My brother had
9 Israeli soldiers living in his house for three days,
10 living in his house. They put them all in one room,
11 and -- and they took the rest of the house. His
12 children were, I think, at that time four and six.
13 And -- and we all worried how this is going to affect
14 them for the rest of their lives.

15 There were so many people that were stuck.
16 And a good friend of ours died in that time and couldn't
17 be buried. People -- I mean, all kinds of tragedies
18 occurred during the course of these. So it was a very
19 intense and terrible time, very insightful. We didn't
20 need to be told anything. We -- we were experiencing
21 things.

22 Q. BY MR. YALOWITZ: Human Rights Watch
23 states in its report:

24 "The organizers sought to portray the bombers
25 as 'martyrs' - that is, as heroes prepared to make the

OCTOBER 13, 2013 - RAJA SHEHADEH

1 easily get influenced by statements because you --
2 you know it for yourself. You don't need to be told.

3 Q. Human Rights Watch wrote in their report
4 that the targeting of civilians, often using perfidious
5 methods, made the suicide bombers and their sponsors
6 criminals.

7 You agree with that, don't you?

8 A. Well, they -- well, they -- they died.
9 They -- they killed themselves. So they -- I mean,
10 a criminal has to be alive to be --

11 Q. Human Rights Watch wrote the:

12 "Targeting of civilians often using perfidious
13 methods made the suicide bombers and their sponsors
14 criminals."

15 A. I don't know about that.

16 Q. And --

17 A. Sorry.

18 Q. And Human Rights Watch wrote in their report
19 that these people's:

20 "Actions and disregard for basic human
21 rights has tainted and undermined the wider struggle
22 for Palestinian human rights."

23 Do you agree with that?

24 A. It's difficult for me to agree or disagree
25 with parts of the report when I'm not familiar with

OCTOBER 13, 2013 - RAJA SHEHADEH

166

168

1 ultimate sacrifice in defense of their people."

2 That's true, isn't it?

3 MR. HILL: Objection. Lack of foundation.

4 MR. YALOWITZ: That's not a valid objection,
5 Brian, and you know it. You're disrupting the
6 deposition. Now stop it.

7 MR. HILL: I'll make proper objections.
8 This witness has no foundation to answer the question.
9 You haven't established that he has personal knowledge
10 of the facts that you're asking him to agree with.
11 That's a proper objection. I've made it.

12 He can respond.

13 Q. BY MR. YALOWITZ: Do you need the question
14 back?

15 A. Well, I can see that the Palestinians were
16 divided. And -- and this idea that we needed to be
17 told that people who were exploding themselves were
18 doing it on our behalf did not agree with the thoughts
19 of so many of the Palestinians, even if it were
20 purported to be the case.

21 I mean, of course, in -- in the Western media,
22 there was a lot of hype made of -- of this. But if
23 you're living there and you're -- you're -- sometimes
24 you know people on the other side, sometimes you know
25 how -- how -- what violence means, you -- you don't

OCTOBER 13, 2013 - RAJA SHEHADEH

1 the whole report. Because I trust Human Rights
2 Watch and trust their ability to be fair and careful.
3 And I know that they have had all kinds of reports,
4 sometimes critical of Israel, sometimes critical of
5 the West Bank authority -- the Palestinian Authority.
6 And, in general, I trust their reports. But this
7 particular report I'm not familiar with enough to
8 give an opinion on that.

9 Q. So do you have an opinion generally about
10 the topic -- let me read the sentence to you. And
11 I understand that you haven't read the report. And
12 that's fair. The -- the assertion that Human Rights
13 Watch makes is that the actions of suicide bombers
14 and their:

15 "Disregard for basic human rights has tainted
16 and undermined the wider struggle for Palestinian human
17 rights."

18 MR. HILL: What's the question?

19 Q. BY MR. YALOWITZ: Do you agree with that?

20 A. I don't know if it undermines the wider
21 struggle of Palestinian rights. Because I don't
22 think to begin with that suicide bombing serves any
23 good purpose for the Palestinians or for anybody.
24 So it's -- it's not a good objective. It's not the
25 right way of going about things. And so it's wrong

OCTOBER 13, 2013 - RAJA SHEHADEH

1 on the face of it. That's all I can say.
2 Q. Can we go back to the early period of the
3 PA authority, '96, '97 time period.
4 A. Uh-huh.
5 Q. This is -- '96, '97 is the first -- first
6 period of the new Palestinian Authority?
7 Do I have that right?
8 A. That's right.
9 Q. That's when they're forming up their police
10 force and things like that?
11 A. That's right.
12 Q. And I think you and I have talked about that
13 there were elements in the Palestinian society who were
14 against the Peace Process; right?
15 A. Right.
16 Q. And they used violence in the '96, '97 period
17 to achieve their aims against the Peace Process; right?
18 MR. HILL: Objection. Lack of foundation.
19 You can respond.
20 THE WITNESS: I can't say that. I -- all
21 I say is that they were opposed and tried to undermine
22 it, as the Likud in -- in Israel and the Netanyahu
23 government tried to undermine the Oslo process by
24 not withdrawing from -- by not following it up, by --
25 by breaking down whatever had been achieved and --

OCTOBER 13, 2013 - RAJA SHEHADEH

1 A. Uh-huh.
2 Q. Do you see that?
3 A. Uh-huh.
4 Q. And then Human Rights Watch is reporting that:
5 "Palestinian groups carried out 14 suicide
6 bombing attacks against Israeli civilians, mostly in
7 1996 through '97."
8 Do you see that?
9 A. Yeah.
10 Q. Is that consistent with your recollection?
11 MR. HILL: Objection. Lack of foundation.
12 You can respond.
13 THE WITNESS: You know, I -- I was around.
14 But I haven't been counting or observing -- I mean,
15 you know, there were so many things happening. And
16 this was amongst the things that possibly were
17 happening.
18 Q. BY MR. YALOWITZ: You're not disagreeing
19 with Human Rights Watch?
20 A. I would -- I would think that Human Rights
21 Watch is usually careful in its documentation. So on
22 that basis, I cannot, on the face of it, dispute their
23 facts, although I cannot confirm them either because
24 I have no knowledge of them.
25 Q. And if you could just look with me at the

OCTOBER 13, 2013 - RAJA SHEHADEH

170

172

1 and stopping the progress of the process.
2 Q. BY MR. YALOWITZ: Did Likud send suicide
3 bombers to Ramallah?
4 A. No. But they sent settlers to settle and
5 take more land and facilitated that and reduced the
6 possibility of coordination with the police and made
7 every effort to undermine the confidence of the people
8 and the representatives of the people in the process,
9 which was very difficult and made the life of the
10 Palestinian Authority very difficult.
11 Q. So could you look with me -- just coming
12 back to the '96, '97 period, could you look with me
13 on page 14 of the Human Rights Watch report?
14 A. By the way, I want to say that you don't
15 kill human beings only by suicide bombings. You also
16 kill them by shooting them. And the Israeli Army, at
17 several occasions, one of them in '96, shot -- I think
18 the number was over 100 people and injured. And these
19 are Israeli Army officers who are certainly accountable.
20 Which page?
21 Q. Fourteen.
22 A. Yes.
23 Q. So there's a heading:
24 "Previous Use of Suicide Attacks Against
25 Civilians."

OCTOBER 13, 2013 - RAJA SHEHADEH

1 next paragraph, Human Rights Watch has reported:
2 "The PA responded by detaining hundreds of
3 Hamas and Islamic Jihad members and supporters, but
4 they were not charged or brought to trial in connection
5 with the bombings."
6 A. I can't comment on this because I don't know
7 the facts and I don't know the details and I have no
8 knowledge of this myself.
9 Q. And then Human Rights Watch reports:
10 "Following these detentions, the bombings
11 ceased."
12 Do you have any knowledge about whether
13 that's correct or incorrect?
14 A. I don't have any knowledge. I can't be
15 helpful to you on this at all.
16 Q. And -- and then Human Rights Watch reports:
17 "Many of the detainees, however, were released
18 from PA custody once the clashes between Palestinians
19 and Israelis resumed in September 2000."
20 Do you see that?
21 A. Yes, I see that. But, again, I have no
22 ability to confirm or deny or add to this or help --
23 be helpful about this.
24 Q. That was going to be my next question. So
25 there we are.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 Now, do you know who Ahmed Barghouti was?
2 A. No. No, I don't.
3 Q. Have you ever heard of Ahmed Barghouti?
4 A. I don't -- no, I haven't heard of Ahmed
5 Barghouti. I've heard of many other Barghoutis, but
6 not Ahmed.
7 Q. Marwan, I suppose --
8 A. Marwan, yes, I knew him as a student.
9 Q. So you -- you have -- I take it you have no
10 opinions about his activities; right?
11 A. No. I --
12 MR. HILL: Objection. Vague.
13 Who's -- who's the "his"?
14 MR. YALOWITZ: Fair enough. Let me rephrase
15 the question.
16 Q. BY MR. YALOWITZ: I take it you have no
17 opinions about Ahmed Barghouti's activities in the
18 2001 and 2002 period?
19 A. I have no opinions on the activities of
20 Ahmed Barghouti.
21 Q. And I take it you have no opinions on the
22 activities of PA authorities who arrested him or
23 released him or anything like that?
24 A. I have no opinions on the PA authorities
25 who arrested or detained him. I know nothing about

OCTOBER 13, 2013 - RAJA SHEHADEH

174

1 this.
2 Q. Are you aware that, in December 2001 and
3 January 2002, the PA made sustained efforts at achieving
4 a cease-fire?
5 A. Yes. I -- I know this from reading, yeah,
6 papers. But I have no direct involvement or engagement
7 with this.
8 Q. Do you have any knowledge about what the PA
9 did to achieve that cease-fire?
10 A. I'm afraid not.
11 Q. Do you recall that this -- that -- that at
12 the end of January 2002 the cease-fire failed?
13 A. No, I don't know. I don't remember this.
14 Q. Do you -- do you recall -- have you ever
15 heard of an individual named Wafa Idris?
16 A. I haven't heard of Wafa Idris. "Idris"
17 probably.
18 Q. Idris.
19 You never heard of her as a suicide bomber?
20 A. Oh, it's a woman? No, I haven't.
21 Q. We talked about Jabril Rajoub.
22 Did we talk about him?
23 A. Yes, we did.
24 Q. But you said you don't know when he left the
25 Palestinian police?

OCTOBER 13, 2013 - RAJA SHEHADEH

1 A. No, I don't know when. I know he did leave,
2 but -- or maybe he didn't. I don't know. I mean, you
3 know, he may -- he might have something to do with it
4 still. But he's more active with football.
5 Q. Do you know of an individual named Nasser
6 Aweis?
7 A. Nasser Aweis?
8 Q. Aweis.
9 A. No. I'm afraid not.
10 Q. Do you know of an individual named Abd
11 Al-Karim Aweis?
12 A. Again, no.
13 Q. Would you agree with me that it is -- it's
14 not -- well, let me ask you a different way. I'm
15 going to strike the question and start again.
16 Would you agree with me that it's not okay
17 to pay people who commit acts of terrorism?
18 MR. HILL: Objection. Vague. Lack of
19 foundation.
20 You can respond.
21 THE WITNESS: What -- what do you mean "pay"?
22 What do you mean by "pay"?
23 Q. BY MR. YALOWITZ: Pay, like to pay money,
24 to pay money to people who commit acts of terrorism.
25 Is that permitted under international law?

OCTOBER 13, 2013 - RAJA SHEHADEH

176

1 A. No, of course not.
2 Q. Is it permitted under international law
3 to keep somebody on the -- on your payroll, as an
4 employer, who's committed acts of terrorism?
5 A. I don't know what's the position on the
6 international law on this specific point.
7 Q. Do you think that it's consistent with
8 international law to give an employee a promotion
9 after he's convicted of committing an act of terrorism?
10 A. I don't know these circumstances. And I
11 don't know -- I can't answer.
12 Q. Do you -- do you think it's consistent with
13 international law to incite acts of terrorism?
14 A. No. And incitement in any form is -- is --
15 to acts of terrorism is wrong, of course.
16 Q. Do you -- do you think it's permitted under
17 international law to release prisoners who are suspected
18 of participating in acts of international terrorism?
19 MR. HILL: Objection. Vague.
20 You can respond.
21 THE WITNESS: Well, you know, if -- if
22 something is a criminal offense and somebody is
23 arrested, they should not be released to begin with.
24 So I think that's how -- what it comes down to.
25 Q. BY MR. YALOWITZ: And I -- and I think you

OCTOBER 13, 2013 - RAJA SHEHADEH

1 said that you have no -- you -- you mentioned you
2 knew Marwan Barghouti as a student.
3 Did you know him when he was leading the
4 Al-Aqsa Martyrs Brigades?
5 MR. HILL: Objection. Lack of foundation.
6 THE WITNESS: When Marwan Barghouti was
7 at the university in Birzeit and I served as a legal
8 advisor for the university and I used to see him
9 at the university, he was active in student politics.
10 And then he was deported.
11 And I -- when I went with the delegation
12 through Amman, Jordan, I saw him in Amman because he
13 came to the hotel with others and so on. And then
14 after the Oslo Accords were signed, he was one of the
15 people who was allowed to return home.
16 And I remember speaking to him and finding
17 out that his positions have increased -- have changed
18 entirely, so he was willing -- and he was telling me
19 about meetings that he was holding with Israelis and
20 the joint things that he was doing. And -- and he was
21 saying that we must give a chance -- complete chance
22 to this agreement, which rather surprised me, because
23 he was -- he had changed 180 degrees from his earlier
24 positions. And --
25 Q. BY MR. YALOWITZ: Perhaps not.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 I mean, he's a different kind of person than I am.
2 And we're not attracted to each other.
3 Q. Did you read, in one of the expert reports,
4 that Mr. Rajoub and Mr. Barghouti were implicated in
5 the Hebrew University bombing?
6 A. I -- I don't remember that. But it might be.
7 It might be. I don't remember. I don't remember. I
8 mean, I read so many now of these reports that --
9 Q. In any case, you don't have any personal
10 knowledge of their activities in the March through
11 July 2002 time frame, do you?
12 A. Absolutely not.
13 MR. HILL: Just for the record, "their
14 activities" is Mr. Rajoub?
15 Is that who you're referring to?
16 Q. BY MR. YALOWITZ: So you understood I was
17 asking about Barghouti and Rajoub; right?
18 A. Yeah.
19 MR. HILL: Okay.
20 THE WITNESS: And I didn't have --
21 MR. HILL: Thank you.
22 THE WITNESS: -- anything to do with them.
23 Q. BY MR. YALOWITZ: So I want to direct your
24 attention to page 32 of the Human Rights Watch
25 report. And I'm -- I'm looking at the last full

OCTOBER 13, 2013 - RAJA SHEHADEH

1 A. No. I had no doubt that he was being genuine.
2 And then -- and this was in the late '90s, you know,
3 '96, '97, maybe '98 even. I'm not sure of the exact
4 date.
5 And then he, like many others, were so
6 disappointed and so crushed by what was happening
7 in the occupied territories, in view of the agreement
8 and the willingness of the Palestinians to accommodate
9 the Israelis and -- and give so much up and so on, that
10 he must have changed. But since then, I didn't speak
11 to him to find out. So I don't know of his activities.
12 Q. Did you know him in the 2002 period?
13 A. No, I didn't.
14 Q. Did you have any dealings with him?
15 A. No. No, I didn't. And I wasn't -- I wasn't
16 so curious, actually. You know, the place is very
17 small, and sometimes you run into people you know.
18 But this happened to have been done before.
19 Q. You mentioned Jabril Rajoub.
20 Did -- did you deal with Jabril Rajoub in
21 the 2002 time period?
22 A. I never dealt with Jabril Rajoub at all
23 except that he was around in -- in society things,
24 weddings sometimes, or receptions that I would go into,
25 and I would see him. But I -- I wasn't somebody --

OCTOBER 13, 2013 - RAJA SHEHADEH

1 paragraph on page 32, which runs over to page 33.
2 And I'll -- I'll just read a little bit of it for
3 you to orient you.
4 "Seeming public justifications of the
5 bombings, however, came from figures close to Arafat,
6 especially after the Al-Aqsa Martyrs Brigades began
7 carrying out suicide bombing attacks against civilians
8 in early 2002."
9 And then Human Rights Watch quotes Ahmad Abd
10 Al-Rahman.
11 A. Ahmad Abd Al-Rahman.
12 Q. Abd Al --
13 A. Rahman.
14 Q. Rahman. Who was Abd Al-Rahman?
15 A. I don't know. They say he's an advisor.
16 Q. But you -- you've never heard of him?
17 A. I've heard of him. Yeah, I've heard of him.
18 Q. And what did you hear of him as?
19 A. He was involved with the Palestinian
20 Authority.
21 Q. And then further down in the paragraph,
22 there's a quotation from Marwan Barghouti.
23 Do you see that?
24 A. Uh-huh. Okay.
25 Q. Do you have any basis to disagree with

OCTOBER 13, 2013 - RAJA SHEHADEH

1 the comments in this paragraph or the quotations --
2 the accuracy of the quotations?
3 A. I -- I --
4 MR. HILL: Objection. Foundation.
5 You can respond.
6 THE WITNESS: I cannot vouch for these
7 quotations because there are so much that has been said
8 and so many quotations and so many political statements,
9 as I saw also from the reports you submitted from your
10 experts, which I think have -- have to be assessed in --
11 in the context. Sometimes they are political statements
12 that are said for public consumption.
13 I mean, you know, Palestinian culture is an
14 oral culture and people say a lot, speak a lot, and are
15 emotional. And -- and you can't always take everything
16 they say as word of God or word of -- so you can find
17 so many things to quote and condemn a person or an
18 authority.
19 But, you know, I don't know what is the
20 authority here, whether these people said it, what
21 context they said it in, what they meant by it, how
22 is the translation. They obviously said it in Arabic.
23 I don't know if it was carefully translated. I can't
24 give an opinion on this.
25 Q. BY MR. YALOWITZ: The only basis you have
OCTOBER 13, 2013 - RAJA SHEHADEH

182

1 to judge is that it's in the Human Rights Watch
2 report; right?
3 A. Yeah. Which -- which usually are careful
4 people in doing -- but, again, it's such a lengthy
5 report that I haven't read. And, I mean, you know,
6 they're -- they're a careful organization. But they
7 can make mistakes. They can -- they have people who
8 interpret these things, and they can be wrong in their
9 interpretation. They're not indelible.
10 Q. So I want to direct your attention to page 36
11 of the Human Rights Watch report.
12 A. Uh-huh.
13 Q. And I'm just going to read a statement to you,
14 and I want to ask you if you have any opinions about it.
15 Okay.
16 "Public officials, because of the political
17 authority they embody, should never legitimize attacks
18 on civilians."
19 A. This is in the report, or you're reading it?
20 Q. Yes. I'm reading from the bottom of page 36,
21 the last full paragraph.
22 Do you see it?
23 A. Yeah.
24 Q. You agree with that, don't you?
25 A. Yeah.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 Q. And then Human Rights Watch, speaking about
2 the PA, says:
3 "Yet political leaders have made statements
4 that appear to endorse attacks against civilians, both
5 within the occupied territories and externally. These
6 span the range from ambiguity to outright support and
7 undermine other statements condemning attacks against
8 civilians."
9 A. I don't have an opinion on this. And I think
10 that it's very dangerous to pick and choose statements
11 made by political people. Because political people
12 speak all kinds of things for political consumption --
13 for public consumption.
14 I think you can condemn so many Israeli
15 leaders, as has happened, of course, who -- when they
16 said things for public consumption and sometimes not
17 being aware that they were recorded. And they were
18 recorded, and they were condemned for what they said.
19 Because political leaders speak a lot of
20 things and say a lot of things. And -- and sometimes
21 they're saying them because they feel they need to
22 say them because, otherwise, they will not be popular.
23 They don't necessarily mean what they say always.
24 I wish they did.
25 Q. Could you look with me on page 38 of the
OCTOBER 13, 2013 - RAJA SHEHADEH

184

1 Human Rights Watch report. The Human Rights Watch
2 report -- and I'm looking at the last paragraph on
3 page 38 --
4 A. Uh-huh.
5 Q. -- writes:
6 "Apologetic statements by public officials
7 have also been accompanied by the broadcast of
8 incendiary statements on publicly funded television."
9 Do you see that?
10 A. I see that. And I must tell you that
11 publicly funded television was a farce. Because this
12 is Palestine Television. I've rarely watched Palestine
13 Television. Now it's improved a bit. But the times
14 I did watch Palestine Television, it -- it was so badly
15 done, so mediocre, so inaccurate -- I don't know how
16 many people watched it. Because you watch television
17 either for entertainment or to get something that you
18 can trust about the news or about what is happening
19 or discussions and so on.
20 Publicly funded television, no matter what
21 was there spoken on it, might not have reached many
22 people because I don't believe many people were watching
23 Palestine Television. They were other stations that
24 did a much better job in reporting on the situation
25 or giving entertainment.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 Q. I take it you -- you do not make it a practice
2 to watch televised sermons by imams that are broadcast
3 on Palestinian television?

4 A. I don't watch television entirely. I don't
5 waste my time with television.

6 Q. So -- so you probably are unfamiliar with
7 some of the incendiary statements that were made on
8 Palestinian television?

9 A. Absolutely unfamiliar. And even I don't
10 believe I knew where to find Palestine Television on
11 the channel lists.

12 Q. Do you know who owns Palestinian television?
13 Is it privately owned?

14 A. No, it's not -- certainly not privately owned.
15 It must be the PA.

16 Q. And does it -- does it have a -- a tradition
17 of independence from the PA political authorities?

18 MR. HILL: Objection. Lack of foundation.

19 THE WITNESS: I don't know about how it's
20 organized. But, you know, again, the Authority came
21 without this tradition. And -- and, in general, the
22 PA and the PLO did a very bad job with public relations
23 throughout. Now they're doing a little better job of
24 it. They're getting a little more sophisticated. But
25 no, they -- they didn't have independence -- independent

OCTOBER 13, 2013 - RAJA SHEHADEH

1 suppose, he was living and killed about 100 people,
2 civilians, with a one-ton bomb. And children and
3 young and old and everybody was killed because they
4 wanted to kill Salah Shehadeh. And it was a big crime.
5 A big crime.

6 Q. Why did they kill him?

7 A. Well, they thought he was a illegal activist.

8 Q. In Hamas?

9 A. I think Hamas.

10 Q. Did -- did -- you never met him; right?

11 A. No.

12 Q. So I want to ask you a hypothetical question.
13 I want you to assume that you met him -- that he came
14 to your house and you met him.

15 Is there anything in the culture that would
16 require you to take him in and be a host for him?

17 A. What do you mean?

18 Q. I mean, would it be customary for you to
19 accept him as a guest in your home?

20 A. I don't accept anybody -- anybody coming
21 to my home without a prior arrangement. So no.

22 Q. And -- and is it -- would it be --

23 A. I mean, if he just rang the bell and wanted
24 to come in, I would feel it's an imposition. I would
25 feel that about anybody.

OCTOBER 13, 2013 - RAJA SHEHADEH

186

188

1 television, I wouldn't think. But I -- I don't know
2 for sure how it's run and how it's done.

3 Q. BY MR. YALOWITZ: I'm sorry. I lost
4 focus. I just need to read what you said.

5 A. Can we take a quick break?

6 Q. Yes, of course.

7 (Recess from 4:15 p.m. to 4:23 p.m.)

8 Q. BY MR. YALOWITZ: I just have a couple
9 more questions and a hypothetical.

10 You mentioned a common name of Barghouti.

11 Is Shehadeh also a common name?

12 A. It's absolutely a common name because it's --
13 it's all over the Middle East. There are Shehadehs
14 in Lebanon. One of them is a -- or was a famous
15 playwright in Paris and since died. There are
16 Shehadehs in Nazareth. There are Shehadehs in Gaza.
17 There are Shehadehs all over the West Bank. And it's
18 both Christian and Muslim.

19 Q. There was a leader in Hamas called Salah
20 Shehadeh?

21 A. That's right.

22 Q. Was he a relative of yours?

23 A. No, he wasn't.

24 And he was -- this was a time when they
25 bombed the quarter in which they thought that, I

OCTOBER 13, 2013 - RAJA SHEHADEH

1 Q. And -- and knowing what his job was, what
2 his work was -- you know what his work was?

3 A. I don't know, frankly.

4 Q. So you understand that he was a leader in
5 Hamas?

6 A. Maybe.

7 Q. So if -- if a leader of Hamas came to your
8 home and said, "I would like to stay with you," would
9 you accept him into your home just because he had the
10 same last name as you?

11 A. No.

12 Q. And --

13 A. No. It has -- it doesn't have anything to
14 do with -- I mean, sharing a last name can -- is not
15 a basis for making claims, even in our very hospitable
16 culture. No, it's not.

17 Q. And -- and what about giving him money, would
18 you give him money?

19 A. I wouldn't give money. No, I wouldn't give
20 money to anybody.

21 Q. And what about giving a cell phone so he
22 could do his work in Hamas, would you do that?

23 A. That's not my job to do that. No. I mean,
24 why should I?

25 Q. It would be inappropriate; right?

OCTOBER 13, 2013 - RAJA SHEHADEH

1 A. I mean, why -- my position in the politics
2 is negotiations. And -- and I'm not involved in
3 political action -- political action or resistance
4 activities. And so I don't see myself as contributing
5 in any form or shape to action that is of a political
6 nature or resistance nature. I mean, I made that
7 choice long ago.

8 Q. Would it be part of expected Arab hospitality
9 to give Salah Shehadeh a gun so that he could do his
10 work for Hamas?

11 A. No, it's not. Because, anyway, guns are not
12 so available. So how would -- how would I have access
13 to a gun to begin with?

14 Q. If you happened to have one lying around,
15 there is no cultural imperative that would encourage
16 you to give it to him; right?

17 A. No. There is no cultural imperative about
18 guns.

19 Q. Okay. Okay. So I don't have any questions,
20 more. You were a most engaging and cooperative witness,
21 somewhat loquacious at times. But it's very helpful.

22 A. I wanted to be helpful.

23 Q. Thank you.

24 MR. HILL: I do not have any questions for
25 Mr. Shehadeh. He will read and sign.

OCTOBER 13, 2013 - RAJA SHEHADEH

1 CERTIFICATE OF REPORTER

2

3 I, BRENDA MATZOV, CA CSR No. 9243, do hereby
4 certify:

5 That, prior to being examined, the witness
6 named in the foregoing deposition was duly sworn by me
7 to testify the truth, the whole truth, and nothing but
8 the truth;

9 That the foregoing deposition was taken before
10 me at the time and place herein set forth, at which time
11 the aforesaid proceedings were stenographically recorded
12 by me and thereafter transcribed by me;

13 That the foregoing transcript, as typed, is a
14 true record of the said proceedings;

15 And I further certify that I am not interested
16 in the action.

17

18 Dated this 4th day of November, 2013.

19

20 BRENDA MATZOV, CA CSR No. 9243

21

22

23

24

25

OCTOBER 13, 2013 - RAJA SHEHADEH

190

192

1 And I believe we have agreed that the
2 plaintiffs would pay him five and a half hours for
3 his time. Make the check payable to his firm and
4 deliver it to my firm for transmission to him.

5 MR. YALOWITZ: That is agreeable.

6 MR. HILL: We're off the record.

7 MR. YALOWITZ: Thank you.

8 (The deposition concluded at 4:29 p.m.)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

OCTOBER 13, 2013 - RAJA SHEHADEH

1 CERTIFICATE OF WITNESS/DEPONENT

2

3 I, RAJA SHEHADEH, witness herein, do
4 hereby certify and declare the within and foregoing
5 transcription to be my examination under oath in said
6 action taken on October 13, 2013, with the exception
7 of the changes listed on the errata sheet, if any;

8 That I have read, corrected, and do hereby
9 affix my signature under penalty of perjury to said
10 examination under oath.

11

12

13

14

15 RAJA SHEHADEH, Witness Date

16

17

18

19

20

21

22

23

24

25

OCTOBER 13, 2013 - RAJA SHEHADEH

1 ERRATA SHEET
2 Case: MARK I. SOKOLOW, et al. vs. THE PALESTINE
3 LIBERATION ORGANIZATION, et al.
4 Date: OCTOBER 13, 2013
5 Witness: RAJA SHEHADEH
6
7 Page ____ Line ____ Change ____
8 Reason ____
9 Page ____ Line ____ Change ____
10 Reason ____
11 Page ____ Line ____ Change ____
12 Reason ____
13 Page ____ Line ____ Change ____
14 Reason ____
15 Page ____ Line ____ Change ____
16 Reason ____
17 Page ____ Line ____ Change ____
18 Reason ____
19 Page ____ Line ____ Change ____
20 Reason ____
21 Page ____ Line ____ Change ____
22 Reason ____
23
24 _____ RAJA SHEHADEH, Witness _____ Date _____
25

OCTOBER 13, 2013 - RAJA SHEHADEH